

MT LEGISLATIVE HISTORY

Chapter 350 1974

Bill (H) 649 S _____

Original bill & hist. NOC

H. Committee on Business & Industry

S. Committee on Executive Reorganization

Hearing Date(s) Jan 30 ☒ C

Hearing Date(s) Feb 25 ☒ C

_____ ☐ C

Mar 06 ☒ C

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Date Out Jan 30 ☒ C

Mar 06 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

BUSINESS AND INDUSTRY COMMITTEE

January 30, 1974

The Business and Industry Committee meeting was called to order this date at 10:30 a.m. with Chairman Mehrens presiding. All members were present except Reps Harper, Lockrem and Mercer.

HB 793 - Rep Healy, chief sponsor; Harold Pitts, Department of Business Regulation; and Gary Delano, Division of Weights and Measures, spoke in favor of this bill. They stated it was only "clean-up legislation".

HB 1068 - Rep Edland, chief sponsor; Ed Carney, Board of Pharmacists; and Rod Grudgel, Montana State Pharmaceutical Association, all spoke in favor of this bill.

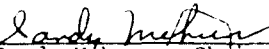
HB 858 - Rep Menahan, chief sponsor, Ed Carney, and Pat Melby, Government Operations Unit, spoke in favor of this bill. Ed Carney submitted amendments (attached).

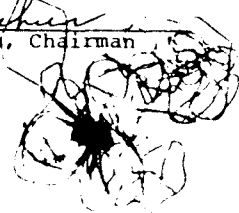
HB 649 - Rep Swanberg explained the bill as Rep Fasbender, chief sponsor, was in another committee meeting. Pat Melby, Jerome T. Loerdorf, Montana Medical Association, and A. W. Scribner, Board of Accounting, all submitted amendments (attached).

HB 693 - Rep Driscoll, chairman of the subcommittee, presented the committee with some amendments to this bill (attached). ~~He stated that the banks were still not in favor of this bill.~~ It was decided that the subcommittee would meet with representatives of the banking industry and the credit unions on Friday, February 1, at 8:00 a.m. to allow them to see the final proposed amendments.

HB 649 - Rep Swanberg made a motion to DO PASS. Rep Lien seconded and the motion carried.

The meeting adjourned at 11:45 a.m.


Sandy Mehrens, Chairman



mje

AMENDMENTS TO HOUSE BILL NO. 249

PROPOSED BY THE MONTANA MEDICAL ASSOCIATION

Amend page 144, Section 91, subsection (3), line 12 of the introduced bill, by striking the following underlined word, "may" and reinserting the following word "shall".

Further amend page 147, Section 93, line 22 of the introduced bill, by striking the following word "first" and inserting in lieu thereof the following word "last".

Further amend page 149, Section 94, subsection (2), lines 19 through 22 of the introduced bill, by striking the following underlined material, "A person hired by the department to assist it and the board in investigations, the authorization of temporary certificates, professional correspondence, and related matters shall be approved by the board.", and inserting in lieu thereof the following new material, "The board shall appoint a person to assist it in investigations, the authorization of temporary certificates, professional correspondence, and related matters subject to the approval of the department. Such person shall be paid on a basis commensurate with the duties assigned."

Amend Section 165 of the introduced bill by deleting, at page 244, lines 4 and 5 thereof, the words and figures, "Except as provided in section 82A-1603(4), the department" and by inserting in lieu thereof the words, "The board".

Further amend Section 165 of the introduced bill by deleting, at page 244, line 9, the word "department", and by inserting in lieu thereof the word "board".

Further amend Section 165 of the introduced bill by deleting, at page 244, line 10, the word "department", and by inserting in lieu thereof, the word "board".

Amendments to HB 649 as submitted by A. W. Scribner,
Board of Accounting.

COMMITTEE ON EXECUTIVE REORGANIZATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 27	1-14-74	2-15-74 2-22-74	2-22-74			2-22-74			
SB 453	1-14-74	1-18-74	1-18-74			1-18-74			
SB 461	1-14-74	1-23-74 1-28-74	1-28-74			1-28-74			
SB 473	1-14-74	1-28-74				1-28-74			
SB 625	2-5-74	2-8-74 2-15-74	2-15-74		2-15-74				
HB 294	1-14-74	---	---						
HB 582	1-14-74	2-14-74	2-27-74				2-27-74		
HB 590	1-14-74	2-22-74	2-27-74				2-27-74		
HB 593	1-14-74	2-13-74	2-13-74				2-13-74		
HB 595	1-14-74	2-13-74	3-1-74				3-1-74		
HB 600	2-9-74	2-20-74	3-1-74				3-1-74		
HB 649	2-4-74	2-25-74	3-6-74				3-6-74		

MINUTES OF THE MEETING
EXECUTIVE REORGANIZATION COMMITTEE
MONTANA STATE SENATE

February 25, 1974

The meeting of the Executive Reorganization Committee was called to order by Chairman Keenan on February 25, 1974, in Room 402 of the State Capitol Building at 12 NOON.

ROLL CALL: All members were present with the exception of Senator Story who asked to be excused.

CONSIDERATION OF HOUSE BILL 649: Representative Fasbender gave permission to Mr. Melby to comment on the bill. Mr. Melby said that this does have a few substantive changes, describing briefly some of the changes. Mr. Ed Carney, Director of the Department of Professional and Occupational Licensing, spoke briefly regarding HB 649 and hoped the committee would see fit to concur in this bill.

Chairman Keenan asked the committee to comment and a brief discussion followed. Chairman Keenan stated that action would be deferred in agreement with a suggestion by Mr. Melby and asked for a volunteer to meet with the legal staff and go over the bill and make a report to the committee. Senator Shea volunteered for this study of HB 649.

Chairman Keenan asked Senator Carl as to progress regarding HB 590. Senator Carl will have his report ready by the Wednesday meeting.

Senator Keenan announced that Wednesday, February 27 HB 582 will also be heard.

Meeting adjourned.


SENATOR P. J. KEENAN, CHAIRMAN

MINUTES OF THE MEETING
EXECUTIVE REORGANIZATION COMMITTEE
MONTANA STATE SENATE

March 6, 1974

The meeting of the Executive Reorganization Committee was called to order by Senator P. J. Keenan, Chairman, on the above date in room 402 of the State Capitol Building at 12:00 noon.

ROLL CALL: All members present except Senator McOmber.

CONSIDERATION OF HOUSE BILL 294: Senator Carl moved that HB 294 be not concurred in.

Senator Siderius made a substitute motion that HB 294 be left in committee. Seconded and a roll call vote was taken with Chairman Keenan and Senator Shea voting No.

CONSIDERATION OF HOUSE BILL 649: Chairman Keenan asked that Senator Shea report on HB 649. Senator Shea said that along with the attorneys Margaret Borg and Mr. Melby, this bill had been researched very well. This bill deals with the licensing of professional people. All boards that are affected and contacted were found to be in agreement with the bill.

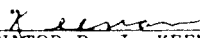
Mr. Melby stated that the amendments are purely updating for legislation passed this year.

Senator Siderius moved that the amendments be adopted and seconded and carried. Senator Deschamps moved that HB 649 AS ~~SO AMENDED BE CONCURRED IN.~~ Seconded by Senator Carl and carried unanimously.

Chairman Keenan thanked the committee for their cooperation and also thanked the attorneys, Margaret Borg and Mr. Melby for all they did to assist with all of the bills. Senator Aber complimented Chairman Keenan and the committee arose in agreement.

Mr. Melby thanked the committee for their cooperation.

With no further business to come before the committee, the meeting adjourned at 12:25 P.M.


SENATOR P. J. KEENAN

RECODIFICATION OF THE LAWS OF THE DEPARTMENT OF
PROFESSIONAL AND OCCUPATIONAL LICENSING

This is an explanation of the proposed recodification of the laws of the Department of Professional and Occupational Licensing. The recodification was required in order to reflect the changes made by the Executive Reorganization Act of 1971.

Briefly stated, the Reorganization Act transferred the 26 professional and occupational licensing boards to the Department for "administrative purposes only" as prescribed in Section 82A-108. (The Act transferred the Board of Water and Waste Water Operators to the Department, but this was superseded by separate legislation enacted in 1971 which placed the Board's functions in the Department of Health and Environmental Sciences. The Board of Psychologists, which was created in 1971, was allocated to the Department of Professional and Occupational Licensing by executive order of the Governor and is proposed to be allocated to the Department by law under this recodification.)

Sections 82A-108, 82A-1603, 82A-1604, and 82A-1605 are the keys to an understanding of this proposed recodification and of the changes brought about by reorganization. These sections, in effect, transferred to the Department the administrative functions of the 26 boards and left with the respective boards their substantive, policy-making functions, such as rule-making, conduct of hearings, standard-setting, etc. Section 82A-108, prescribing the meaning of an allocation for administrative purposes only, reads as follows:

82A-108. Allocation or transfer for administrative purposes only. (1) An agency allocated or transferred to a department for administrative purposes only in this act shall:

(a) Exercise its quasi-judicial, quasi-legislative, licensing, and policy-making functions independently of the department and without approval or control of the department.

(b) Submit its budgetary requests through the department.

(c) Submit reports required of it by law or by the governor through the department.

(1) Appoint impartial legal counsel to conduct hearings before each board within the department whenever any board holds a hearing. The legal counsel appointed shall see that hearings are conducted in a proper and legal manner.

(2) Whenever the department conducts an investigation of a complaint of illegal or unethical conduct of a member of a particular profession or occupation as prescribed in section 82A-1603 (5) of this chapter, and if requested by the appropriate board, appoint an impartial member of that profession or occupation to assist the department in its investigation. The member so appointed may not be a member of the board having jurisdiction over the particular profession or occupation.

(3) Hire all personnel to perform the administrative and clerical functions of the department for the boards. Boards within the department have no authority to hire personnel.

82A-1605. Boards within department--duties. Except for the inspection and code-making functions of the state electrical board transferred to the department of law enforcement and public safety and enumerated in chapter 12 of this act, and subject to the administrative control of the department and the director of professional and occupational licensing as set forth in section 82A-108 of this act and under this chapter, each agency transferred to the department shall continue to exercise its prescribed statutory functions. In addition, each board within the department shall:

(1) Set and enforce standards, rules, and regulations governing the licensing, certification, registration, and conduct of the members of the particular profession or occupation within its jurisdiction.

(2) Sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within its jurisdiction. The hearings shall be conducted by the legal counsel appointed under section 82A-1604 (1) of this chapter.

(3) Pay to the department its pro rata share of the assessed costs of the department under section 82A-1603 (6).

In the section-by-section indication of the proposed disposition of each section of the laws, references are made to "administrative transfers," followed by a parenthetical statement referring to this explanation. For example, the reason given for the proposed amendments to Section 62-504 is: "Name and style changes and administrative transfer." In this particular section, the law now provides that the Horse Racing Commission is to keep certain records; in the proposed recodification, this is changed to provide that the records are to be kept by the Department. The reason for the change is subsection (2) of Section 82A-1603, which makes it the duty of the Department to keep all official records

(2) The department to which an agency is allocated or transferred for administrative purposes only in this act shall:

(a) Direct and supervise the budgeting, record keeping, reporting, and related administrative and clerical functions of the agency.

(b) Include the agency's budgetary requests in the departmental budget.

(c) Collect all revenues for the agency and deposit them in the proper fund or account; except as provided in section 82A-1603 (b) of this act, the department may not use or divert the revenues from the fund or account for purposes other than provided by law.

(d) Provide staff for the agency. Unless otherwise indicated in this act, the agency may not hire its own personnel.

(e) Print and disseminate for the agency any required notices, rules, or orders adopted, amended, or repealed by the agency.

(3) The department head of a department to which any agency is allocated or transferred for administrative purposes only in this act shall:

(a) Represent the agency in communications with the governor.

(b) Allocate office space to the agency as necessary, subject to the approval of the department of administration.

Sections 82A-103, 82A-104, and 82A-1605 amplify 82A-108 and further prescribe the respective duties of the Department, Director, and Boards. These sections are set out below.

82A-1603. Department--duties. In addition to the provisions of section 82A-108 of this act, the department shall:

(1) Provide all the administrative and clerical services needed by the boards within the department, including corresponding, taking applications for licenses, issuing licenses granted by the boards, renewing licenses, registering, taking minutes of board meetings and hearings, and filing.

(2) Standardize and keep in Helena all official records of the boards.

(3) Make arrangements and provide facilities in Helena for the meetings, hearings, and examinations of each board, or elsewhere in the state if requested by the board.

(4) Administer and grade examinations required by each board or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination.

(5) At the request of a board, investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department.

(6) Assess the costs of the department to the boards on a pro-rata basis according to the number of man days and the actual operating costs of the department for each board.

82A-1604. Director--duties. In addition to his powers and duties under sections 82A-107 and 82A-108 of this act, the director shall:

of the boards. Such a detailed explanation for each administrative transfer would have made these comments more voluminous than the legislation itself. Every administrative transfer is indicated, however, and is based upon changes required by the Reorganization Act.

The Reorganization Act also changed the names of the 26 boards and these changes are incorporated in the proposed recodification.

The functions of the Board of Electricians pertaining to electrical inspections, issuing tags, charging fees therefor, and establishing an electrical code were transferred to the Department of Law Enforcement and Public Safety by the Reorganization Act; this was superseded by 1973 legislation which transferred those functions to the Board and the Department of Professional and Occupational Licensing.

The composition, qualifications, method of appointment, terms of office, compensation, and reimbursement of the members of the boards were unchanged by the Reorganization Act and, of course, are not changed by this recodification. However, other changes brought about by reorganization required changes in the ex officio composition of three boards:

- The executive officer of the Montana State Department of Health, or his designee, and the Administrator of the Montana State Department of Public Welfare, or his designee, were replaced by the Director of the Department of Health and Environmental Sciences, or his designee, and the Director of the Department of Social and Rehabilitation Services, or his designee, respectively, on the Board of Nursing Home Administrators.
- The appointed representative of the State Board of Health was replaced by the appointed representative of the Department of Health and Environmental Sciences on the Board of Plumbers.

--The State Engineer and the Director of the Division of Environmental Sanitation of the State Board of Health were replaced by the Administrator of the Division of Water Resources of the Department of Natural Resources and Conservation and the Administrator of the Division of Environmental Sciences of the Department of Health and Environmental Sciences, respectively, on the Board of Water-well Contractors.

Generally, the aim of the recodification is merely to reflect the changes made in the Reorganization Act--name changes and administrative transfers. However, many sections contain archaic and obsolete language; it is recommended that these sections be changed to reflect modern and simplified language and that the obsolete parts be stricken.

In many instances, provisions have been stricken or modified to make the laws of the 26 boards consistent with the Administrative Procedure Act (APA). That act sets uniform procedures for adopting rules, holding hearings in contested cases, and judicial review of decisions of administrative agencies. By deleting provisions in sections that are now covered by the APA, a uniform approach can be established by all administrative bodies, and a great deal of unneeded verbiage can be removed from the laws of Montana. This will add clarity and uniformity to all administrative actions, instead of having hundreds of different and conflicting provisions scattered throughout the Revised Codes of Montana.

In all, 341 sections are proposed to be amended by this recodification. A total of 52 sections were found to be either superseded by other laws, including the Reorganization Act and the Administrative Procedure Act, or are obsolete and no longer needed; these are proposed to be repealed.

A section-by-section indication of the proposed disposition of each section of the laws pertaining to the Department of Professional and Occupational Licensing is contained in the reference table which follows:

REFERENCE TABLE--RECODIFICATION OF LAWS OF

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING

This table shows the disposition in the proposed recodification of every section of the Revised Codes of Montana pertaining to the Department of Professional and Occupational Licensing. It indicates, in the case of each section, whether it is proposed to be amended, repealed, or not changed (that is, neither amended nor repealed). If the section is proposed to be amended or repealed, it also indicates the reason for the amendment or repeal. Some sections are also proposed to be renumbered--placed in more appropriate chapters or in a different order in the same chapter. When this is proposed, it is indicated in parentheses following the word "amended."

<u>Section</u>	<u>Change</u>	<u>Reason</u>
54-301	Amended	The terms "Board" (of Pharmacists) and "Department" (of Professional and Occupational Licensing) were added to this definition section.
54-302	Amended	Administrative transfer (see pages 3 and 4 of these comments for an explanation).
54-303	Amended	Style changes
54-304 through 54-313	No change	
54-314	Amended	Administrative transfer (see pages 3 and 4 of these comments for an explanation).
54-315	Amended	Administrative transfer (see pages 3 and 4 of these comments for an explanation).
54-316	Amended	Administrative transfer (see pages 3 and 4 of these comments for an explanation)
54-317	Amended	Style changes
54-318	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
54-319	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).

Section	Change	Reason
66-101	Amended (Renumbered 82A-1602.3)	This section, providing for the creation and composition of the Board of Architects, was moved to the Reorganization Act, with name and style changes.
66-102	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-103	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation). Also, the terms "Board" (of Architects and "Department" (of Professional and Occupational Licensing) were added to this definition section and an obsolete grandfather clause (subsection 1) was stricken.
66-105	No change	
66-106	No change	
66-107	No change	
66-108	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-109	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-110	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-111	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-112	Amended	Name and style changes and changes to conform with the APA
66-113	Amended	Name and style changes
66-114	No change	
66-115	No change	
66-401	Amended	Name and style changes. Also the definition of "Barbershop" was deleted and placed in a new section, 66-401.1.
66-401.1	Added	This section was added as a definition section adding the terms "Board" (of Barbers) and "Department" (of Professional and Occupational Licensing) to the term "Barbershop".

<u>Section</u>	<u>Change</u>	<u>Reason</u>
54-320	No change	
54-321	No change	
54-322	Amended	Style change
54-323	Amended	Administrative transfer (see pages 3 and 4 of these comments for an explanation).
54-324 through 54-327	No change	
62-501	Amended (Renumbered 82A-1602.13)	This section, providing for the creation and composition of the Board of Horse Racing, was moved to the Reorganization Act, with name and style changes.
62-502	Amended	Name and style changes. Also, the term "Department" was added to this definition section and the meaning of singular and masculine was stricken, because it is covered by Section 19-103.
62-503	Amended	Name and style changes
62-504	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
62-505	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
62-506	Amended	Name and style changes
62-507	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
62-508	Amended	Name and style changes
62-509	Amended	Name and style changes
62-510	Amended	Name and style changes
62-511	Amended	Name and style changes
62-512	No change	
62-513	No change	
62-514	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-402	No change	
66-403	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation). Also, the portion of this lengthy section dealing with the procedure for revocation, suspension, etc. of licenses, was stricken and moved to a new section (66-403.1) which follows.
66-403.1	Added	This is a new section, taken from 66-403, dealing with the procedure for revocation, suspension, etc. of licenses. Name and style changes were made and language was stricken which is covered by the APA.
66-404	Repealed	This section is an obsolete grandfather clause.
66-405	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-406	Amended Renumbered 82A-1602.5)	This section, providing for the creation and composition of the Board of Barbers was moved to the Reorganization Act, with name and style changes.
66-407	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-408	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the provision for an annual report of the Board was stricken because this is covered by 82-4002.
66-409	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation). Also, added was a provision that a person hired by the department to make inspections would be recommended by the board, and setting the compensation for such person.
66-410	Amended	Name and style changes
66-411	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-412	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments for an explanation).
66-501	Amended (Renumbered 82A-1602.7)	This section, providing for the creation and composition of the Board of Chiropractors, was moved to the Reorganization Act, with name and style changes.

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-501.1	Added	This section defines the terms "Chiropractors" and "Department" (of Professional & Occupational Licensing).
66-502	Repealed	The substance of this section, pertaining to terms of office of members of the Board of Chiropractors, was moved to Section 82A-1602.7
66-503	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, changes were made to conform with the APA, and an obsolete grandfather clause was stricken.
66-504	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken.
66-505	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-506	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-507	No change	
66-508	No change	
66-509	No change	
66-510	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, changes were made to conform with the APA.
66-511	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-512	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-513	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the requirement for submission of an annual report was stricken, because this is covered by Section 82-4002. Also, a provision for mileage and actual, and necessary expenses for board members was added.
66-514	Repealed	This section pertains to removal of members of the Board of Chiropractors; it was moved to Section 82A-1602.7, with name and style changes
66-515 through 66-517	No change	
66-601	Amended	Name and style changes. Also, the terms "Board" (of Podiatrists) and "Department" (of Professional & Occupational Licensing) were added to this definition section.

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-602	Amended	Name and style changes
66-603	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, subsection (1) of this section, pertaining to the creation and composition of the Board of Podiatrists, was stricken and moved to the Reorganization Act, with name and style changes. Also, an obsolete grandfather clause was stricken from subsection (2).
66-604	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-605	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-606	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-607	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-608	Amended	Name and style changes
66-609	No change	
66-610	No change	
66-611	No change	
66-801	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-802	Amended	Name and style changes. Also, the terms "Board" (of Cosmetologists) and "Department" (of Professional & Occupational Licensing) were added to this definition section.
66-803	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-805	Amended	Name and style changes
66-806	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, subsection (6), pertaining to adoption of a seal, was moved to this section from Section 66-804.
66-807	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-808	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-809	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-811	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken because it is provided by the APA.
66-812	Amended	Name and style changes
66-813	Amended	Name and style changes
66-814	No change	
66-815	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-816	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-817	No change	
66-818	No change	
66-901	Amended (Renumbered 82A-1602.9)	This section, pertaining to the creation and composition of the Board of Dentists, was moved to the Reorganization Act, with name and style changes.
66-901.1	Added	This section defines the terms "Board" (of Dentists) and "Department" (of Professional & Occupational Licensing).
66-902	Repealed	Oath of office is provided for in the new Constitution. Also, the last sentence providing for removal of Board members, was moved to Section 82A-1602.9.
66-903	No change	
66-904	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the requirement for an annual report was stricken, because it is covered by Section 82-4002.
66-905	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-906	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-907	No change	
66-908	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-909	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-910	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-911	Amended	Name and style changes. Also, language was stricken pertaining to duties of the Attorney General, because this is already provided for in the laws governing the Attorney General.
66-912	No change	
66-913	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken to conform with the APA.
66-914	Repealed	This section pertains to judicial review on revocation or suspension of licenses by the Board of Dentists. Most of the material in the sections is already covered by the APA. It should be noted that a provision for a trial de novo will be deleted by repealing this section. It is poor policy to provide for trials de novo from appeals of administrative agencies. There is no real reason for a hearing before an administrative agency, if the same hearing can be held again in a court. The Supreme Court of Montana has been critical of trials de novo on appeals from administrative agencies (See <u>Peterson v. Livestock Commission</u> , 120 Mont. 140, 181 P. 2d 152 (1947)).
66-915	No change	
66-916	No change	
66-917	No change	
66-918	No change	
66-919	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-920	Amended	Name and style changes

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-921	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken.
66-922	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-923	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-923.1	No change	
66-924	No change	
66-925	Repealed	This section is a short title for the dental laws. It is unnecessary, because it is infrequently, if ever, referred to elsewhere in the law.
66-1010	Repealed	This section is a short title for the medical laws. It is unnecessary, because it is infrequently, if ever, referred to elsewhere in the law.
66-1011	No change	
66-1012	Amended	The terms "Board" (Montana State Board of Medical Examiners) and "Department" (of Professional & Occupational Licensing) were added to this definition section, with style changes.
66-1013	Amended (Renumbered 82A-1602.15)	This section, providing for the creation and composition of the Montana State Board of Medical Examiners, was moved to the Reorganization Act, with style changes. Also, the provision for an oath of office was stricken, because this requirement is contained in the new Constitution.
66-1014	Repealed	This section pertains to the terms of office of members of the Board; it was moved to proposed Section 82A-1602.15.
66-1015	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1016	No change	
66-1017	Amended	Style change and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken. Also a provision was added requiring board approval for a person hired by the department to and it and the board in medical related matters.
66-1018	Amended	Name and style changes

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-1019	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1020	Amended	Name and style changes
66-1021	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1022	No change	
66-1023	No change	
66-1024	No change	
66-1025	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1026	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1027	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1028	Amended	Name and style changes
66-1029	No change	
66-1030	No change	
66-1031	No change	
66-1032	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1033	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1034	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1035	Repealed	This section is an obsolete grandfather clause.
66-1036	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, changes were made to conform with the APA.
66-1037	Amended	Name and style changes
66-1038	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, changes were made to conform with the APA.

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-1039	No change	
66-1040	Repealed	The language in this section, pertaining to appeals from decisions of the Board of Medical Doctors, is unnecessary, because it is covered by the APA.
66-1041	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1042	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1043	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, provision for an annual report was stricken, because it is covered by Section 82-4002.
66-1044	Repealed	This is an obsolete section providing for the transfer of records and property to the board of Medical Examiners from its predecessor agency.
66-1045	Amended	Name and style changes
66-1046	No change	
66-1047	No change	
66-1048	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1049	Repealed	The language in this section, pertaining to service of notice or other process, is covered by the APA.
66-1221	No change	
66-1222	Amended	Name and style changes. Also, the short title was stricken from this section, because the Act is not frequently referred to elsewhere in the law; the clause providing that the feminine gender includes the masculine was stricken, because it is covered by Section 19-103; portions of the section providing for the composition of the Board of Nursing were stricken and moved to the Reorganization Act; and, a definition of the term "Department" (of Professional & Occupational Licensing) was added.
66-1223	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the portions of this section pertaining to the

<u>Section</u>	<u>Change</u>	<u>Reason</u>
		creation and composition of the Board of Nursing were moved to the Reorganization Act.
66-1224	Repealed	The portions of this section pertaining to qualifications of members of the Board of Nursing were moved to the Reorganization Act, the requirement for an oath of office was stricken, because this requirement is contained in the new Constitution.
66-1225	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1226	Amended	Name and style changes
66-1227	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1228	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1229	No change	
66-1230	Repealed	This section is an obsolete grandfather clause.
66-1231	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1232	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1233	Repealed	This section is an obsolete grandfather clause.
66-1234	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1235	No change	
66-1236	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1237	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1238	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1239	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, added were qualifications of a secretary hired the Department in connection with the Board's duties in regulating nursing schools.
66-1240	Amended	Style changes

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-1241	Amended	Style changes and changes to conform with the APA.
66-1242	No change	
66-1243	No change	
66-1244	No change	
66-1245	Repealed	This is an obsolete section providing for the transfer of records and funds to the Board of Nursing from its predecessor agency.
66-1301	No change	
66-1301.1	Added	This section defines the terms "Board" (of Optometrists) and "Department" (of Professional & Occupational Licensing).
66-1302	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1303	Amended	Name and style changes. Also, the portions of this section pertaining to the creation and composition of the Board of Optometrists were moved to the Reorganization Act. And, the provision for an oath of office was stricken, because this is required by the new Constitution.
66-1304	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1305	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1306	Repealed	This section is an obsolete grandfather clause.
66-1307	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1308	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1309	Repealed	This section is an obsolete limitation on Section 66-1306, the obsolete grandfather clause.
66-1310	No change	
66-1311	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, stricken from this section was a provision for an annual report, which is covered by Section 82-4002.

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-1312	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken from this section to conform with the APA.
66-1313	No change	
66-1314	Amended	Name and style changes.
66-1315	No change	
66-1316	No change	
66-1317	No change	
66-1318	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1401	Amended (Renumbered 82A-1602.20)	This section, providing for the creation and composition of the Board of Osteopaths, was moved to the Reorganization Act, with name and style changes.
66-1401.1	Added	This section defines the terms "Board" (of Osteopaths) and "Department" (of Professional & Occupational Licensing).
66-1402	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1403	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1404	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1405	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, changes were made to conform with the APA.
66-1406	No change	
66-1407	No change	
66-1408	No change	
66-1409	No change	
66-1410	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-1411	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1412	No change	
66-1413	No change	
66-1501	No change	
66-1502	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the term "Department" (of Professional & Occupational Licensing) was added to this definition section, and the subsection providing that the masculine gender includes the feminine and neuter was stricken, because it is covered in Section 19-103.
66-1503	Amended (Renumbered 82A-1602.21)	This section, providing for the creation and composition of the Board of Pharmacists, was moved to the Reorganization Act, with name and style changes.
66-1504	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the requirement for a Board report was stricken, because it is provided for in Section 82-4002.
66-1506	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken from this section.
66-1507	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1508	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, changes were made to conform with the APA.
66-1509	Repealed	This section, providing for judicial review of acts of the Board of Pharmacists, is covered by the APA.
66-1510	No change	
66-1511	Amended	Name and style changes
66-1512	Amended	Name and style changes
66-1513	No change	
66-1514	No change	
66-1515	No change	

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-1516	No change	
66-1517	No change	
66-1518	No change	
66-1519	No change	
66-1520	No change	
66-1521	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1521.1	Added	This section provides for qualifications of a person hired by the department to inspect pharmacies.
66-1522	No change	
66-1523	No change	
66-1524	No change	
66-1525	No change	
66-1526	No change	
66-1527	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1807.1	Added	This section defines the terms "Board" (of Public Accountants) and "Department" (of Professional & Occupational Licensing).
66-1808	No change	
66-1813	Amended (Renumbered 82A-1602.2)	This section, providing for the creation and composition of the Board of Public Accountants, was moved to the Reorganization Act, with name and style changes.
66-1814	Repealed	The language in this section, providing for the qualifications of members of the Board of Public Accountants, was moved to the Reorganization Act.
66-1815	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1816	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also the last sentence of this section, providing for the transfer of certain funds, was stricken because the transfer took place in 1969 and the sentence is now obsolete.

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66-1817	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1818	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, stricken from this section was a provision for making the Board of Public Accountants an examining committee. Since the two are synonymous, reference to the Board is sufficient.
66-1819	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1820	Amended	Style changes
66-1821	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, stricken from this section was an obsolete grandfather clause.
66-1822	Repealed	This section is an obsolete grandfather clause.
66-1823	No change	
66-1824	No change	
66-1825	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1826	No change	
66-1827	No change	
66-1828	No change	
66-1829	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1830	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1831	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1832	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1833	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Result</u>
66-1834	No change	
66-1835	No change	
66-1836	Amended	Style changes and administrative transfer. Also, language was stricken to conform with the 1924 Act.
66-1837	Amended	Style changes and administrative transfer. See pages 3 and 4 of these comments.
66-1838	No change	
66-1839	No change	
66-1840	No change	
66-1841	No change	
66-1842	No change	
66-1843	No change	
66-1924	Amended	Added to this section was language from Section 66-1925 prohibiting the licensing of corporations, partnerships or associations.
66-1925	Amended	Added to this definition section are the terms "Board" (of Real Estate) and "Department" (of Professional & Occupational Licensing) and stricken was the phrase providing that the masculine gender includes the feminine, because it is covered in Section 19-103. Also, the prohibition against the licensing of corporations, partnerships and associations was stricken and moved to Section 66-1924.
66-1926	No change	
66-1927	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, subsection (a) of this section, pertaining to the creation and composition of the Board of Real Estate, was moved to the Reorganization Act, with name and style changes; portions of subsection (e) relating to deposit of a percentage of the Board's moneys with the general fund were stricken, because the Board is also required to pay into the general fund under the Pro-Rata Plan (this deletion has been recommended by the Legislative Auditor); and, the portion of subsection (e), providing for deposit of the balance of the Board's

<u>Section</u>	<u>Change</u>	<u>Reason</u>
		moneys in the earmarked revenue fund was stricken because it is provided for in Section 66-192. Finally, the power to adopt rules was stricken from subsection (f), because it is covered in subsection (a).
66-1928	Amended	Name and style changes
66-1929	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1930	Amended	Name and style changes and deletion of an obsolete grandfather clause
66-1931	Amended	Name and style changes
66-1932	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1933	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1934	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1935	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1936	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken because it is covered by the APA.
66-1937	Amended	Name and style changes
66-1938.1	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken because it is covered by the APA.
66-1939	Repealed	The language in this section, pertaining to appeals to court, is already covered by the APA.
66-1940	No change	
66-1941	No change	
66-1943	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1944	Amended	Name and style changes. Also, deleted was a provision that the Attorney General is to render opinions on questions of law; this is unnecessary.

Section	Change	Reason
66-1945	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-1946	No change	
66-2101	No change	
66-2101.1	Added	This is a new section, defining the terms "Board (of Abstracters)", "Department" (of Professional & Occupational Licensing), and "Registered Abstracter."
66-2102	Amended (Renumbered 82A-1602.1)	This section, providing for the creation and composition of the Board of Abstracters, was moved to the Reorganization Act, with name and style changes; the requirement for an oath of office was stricken, because the requirement is contained in the new Constitution.
66-2103	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2104	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2105	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2107	Repealed	The substance of this section, defining the term "registered abstractor," was moved to new Section 66-2101.1.
66-2108	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2109	Repealed	This section is an obsolete grandfather clause.
66-2110	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2111	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2112	Repealed	This section is an obsolete grandfather clause.
66-2113	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2114	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-2115	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken because it is covered by Section 82-4002.
66-2116	No change	
66-2117	No change	
66-2118	No change	
66-2119	No change	
66-2120	No change	
66-2201	Amended (Renumbered 82A-1602.24)	This section, providing for the creation and composition of the Board of Veterinarians, was moved to the Reorganization Act, with name and style changes.
66-2201.1	Added	This section defines the terms "Board of Veterinarians" and "Department" (of Professional & Occupational Licensing).
66-2202	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the requirement for an oath of office was stricken, because the requirement is contained in the new Constitution.
66-2203	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the provision for a Board report was stricken, because it is covered by Section 82-4002.
66-2204	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken.
66-2205	Repealed	This is an obsolete grandfather clause for licensure as a farrier.
66-2206	Repealed	This section defines the term "farrier." It is unnecessary, because a farrier has never been licensed since the act was passed in 1913.
66-2207	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2208	Amended	Name and style changes
66-2209	Amended	Style changes. Also, references to the practice of farriery were stricken (see comments for Section 66-2206).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-2209.1	No change	
66-2209.2	No change	
66-2210	Amended	Name and style changes and deletion of language covered by the APA.
66-2211	Amended	Name and style changes
66-2212	No change	
66-2324	No change	
66-2325	Repealed	This is a short title for the Engineers' laws. It is unnecessary, because it is not frequently, if ever, referred to elsewhere in the law.
66-2326	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the term "Department" (of Professional & Occupational Licensing) was added to this definition section.
66-2327	Amended (Renumbered 82A-1602.111)	This section, providing for the creation and composition of the Board of Professional Engineers and Land Surveyors, was moved to the Reorganization Act, with name and style changes. Also, the requirement for an oath of office was stricken, because this requirement is contained in the new Constitution.
66-2328	Repealed	The provision of this section, pertaining to qualifications of Board members, was moved to the Reorganization Act.
66-2329	No change	
66-2330	Repealed	The provision of this section, pertaining to removal of Board members, was moved to the Reorganization Act.
66-2331	No change	
66-2332	No change	
66-2333	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2334	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the provision for a report was deleted, because it is covered by Section 82-4002.
66-2335	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-2336	No change	
66-2337	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2338	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2339	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2340	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2341	No change	
66-2342	Repealed	This section is an obsolete grandfather clause.
66-2343	No change	
66-2344	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2345	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken, which is covered by the APA.
66-2346	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2347	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2401	No change	
66-2401.1	Added	This section defines the terms "Board" (of Plumbers) and "Department" (of Professional and Occupational Licensing).
66-2402	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2403	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the portions of this section pertaining to the creation and composition of the Board of Plumbers were moved to the Reorganization Act, with name and style changes.
66-2404	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

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66-2405	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2406	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2407	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2408	No change	
66-2409	Amended	Name and style changes
66-2410	Repealed	This section is an obsolete grandfather clause.
66-2411	No change	
66-2412	No change	
66-2413	Repealed	This section provides that the Board of Plumbing Examiners constitutes the State Plumbing Board. Under this recodification, the boards are synonymous and are referred to consistently as "the board."
66-2414	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2415	No change	
66-2416	Amended	Name and style changes
66-2417	Amended	Name and style changes
66-2419	No change	
66-2420	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was changed to conform with the APA.
66-2421	Repealed	The language in this section, pertaining to process and proof of service, is covered by the APA.
66-2422	Amended	Style changes and deletion of language covered by the APA.
66-2423	Repealed	The language in this section, pertaining to judicial review, is covered by the APA.
66-2425	Repealed	This section provides that the state plumbing code was to be effective in August, 1959, it is now obsolete.

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-2426	No change	
66-2427	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2501	Amended	Name and style changes, also, the term "Department" (of Professional & Occupational Licensing) was added to this section.
66-2502	Amended	Administrative transfer (see pages 3 and 4 of these comments).
66-2503	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2504	Repealed	This section is an obsolete grandfather clause.
66-2505	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2506	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2507	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2508	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2509	No change	
66-2510	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2511	No change	
66-2512	No change	
66-2513	No change	
66-2514	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2515	No change	
66-2516	No change	
66-2517	Repealed	This is a short title -- "Physical Therapists Practice Act." It is unnecessary, because it is infrequently, if ever, referred to elsewhere in the law.

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-2601	Repealed	This is a short title--the "Montana Water Well Contractor's License Act." It is unnecessary, because it is infrequently, if ever, referred to elsewhere in the law.
66-2602	Amended	Name and style changes. Also, the definitions of "water well" and "water well contractor" were stricken and placed in a new section, 66-2602.1. Also, exceptions from the act were stricken and placed in a new section, 66-2602.2.
66-2602.1	Added	The definitions contained in Section 66-2602 were moved to this section and the terms "Board" (of Water Well Contractors) and "department" (of Professional and Occupational Licensing) were added.
66-2602.2	Added	The exceptions from this act contained in Section 66-2602 were moved to this section.
66-2603	No change	
66-2604	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). The portions of this section pertaining to the creation and composition of the Board of Water Well Contractors were stricken and moved to the Re-organization Act.
66-2605	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, deleted from this section was an outdated provision relating to adoption of rules.
66-2606	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, deleted from this section was an obsolete grandfather clause.
66-2607	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2608	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2609	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2610	Amended	Style changes and deletion of language covered by the APA.
66-2611	Repealed	This section, pertaining to appeals, is covered by the APA.
66-2612	No change	

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-2613	No change	
66-2614	Repealed	The severability clause contained in this section is unnecessary. The general repealing clause is unnecessary. The last sentence states that "this act" does not repeal Sections 69-1301 through 69-1341; this is unnecessary, because those sections have since been repealed.
66-2615	No change	
66-2701	Amended	Name and style changes. Also, the term "Department" (of Professional & Occupational Licensing) was added to this definition section.
66-2702	Amended (Renumbered 82A-1602.16)	This section, providing for the creation and composition of the Board of Morticians, was moved to the Reorganization Act, with name and style changes.
66-2703	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2704	No change	
66-2705	Repealed	This section authorizes the Board of Morticians to employ personnel, which is contrary to Section 82A-1604 (3).
66-2706	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2707	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2708	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2709	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2710	No change	
66-2711	Amended	Style changes
66-2712 through 66-2714	No change	
66-2715	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken which is covered by the APA.
66-2716	Repealed	This section pertains to appeals; it is covered by the APA.

Section	change	Reason
66-271	No change	
66-2801	Repealed	This is a short title--the Electrical Safety Law. It is unnecessary because it is seldom, if ever, referred to elsewhere in the law.
66-2802	Amended	Name and style changes
66-2803	Amended	Name and style changes. Also, added to this definition section were the terms "Board" (of Electricians) and "Department" (of Professional & Occupational Licensing).
66-2804	Amended (Renumbered 82A-1602.10)	This section, pertaining to the creation and composition of the Board of Electricians, was moved to the Reorganization Act, with name and style changes; the provision for compensation of Board members was moved to Section 66-2805.
66-2805	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the portion of this section pertaining to electrical inspections was stricken (see comments under Section 66-2805.1); and, the provision for Board compensation was moved to this section from Section 66-2804.
66-2805.1	Added	This section provides for electrical inspections by the Department of Professional and Occupational Licensing in accordance with Section 82A-1607.
66-2806	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2807	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2808	No change	
66-2809	Amended	Name and style changes
66-2810	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2811	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2812	No change	
66-2813	Repealed	This section, pertaining to judicial review, is provided for by the APA.
66-2814	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2815	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-2816	Repealed	This section is an obsolete grandfather clause.
66-2817	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2819	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2820	No change	
66-2901	No change	
66-2902	Amended	Name and style changes. Also, the term "Department" (of Professional & Occupational Licensing) was added to this definition section.
66-2903	Amended (Renumbered 82A-1602.14)	This section, providing for the creation and composition of the Board of Masseurs, was moved to the Reorganization Act, with name and style changes.
66-2904	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, stricken from this section was an obsolete grandfather clause.
66-2905	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken from this section.
66-2906	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2907	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2908	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2909	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-2910	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the provision for an annual report was stricken because this is provided for in Section 82-4002.
66-2911 through 66-2914	No change	
66-3001	No change	

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-3002	Repealed	This section provides for the creation of the Board of Hearing Aid Dispensers. It was moved to the Reorganization Act.
66-3003	Amended	Name and style changes. Also, the term "Department" (of Professional & Occupational Licensing) was added to this definition section.
66-3004	Amended (Renumbered 82A-1602.12)	This section, providing for the composition of the Board of Hearing Aid Dispensers, was moved to the Reorganization Act, with name and style changes; subsection (4), providing for selection of a chairman and secretary, was moved to Section 66-3006.
66-3005	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3006	Amended	Style changes
66-3007	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3008	No change	
66-3009	Amended	Name change
66-3010	No change	
66-3011	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3012	No change	
66-3013	Repealed	This section is an obsolete grandfather clause.
66-3014	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3015	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3016	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3017 and 66-3018	No change	
66-3019	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments)

SectionChangeReason

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-3020	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language providing that the Legislature shall appropriate moneys out of the earmarked revenue fund was stricken, because it is superfluous.
66-3021	No change	
66-3022	Amended	Style changes and deletion of language provided by the APA.
66-3023	Repealed	This section, pertaining to judicial review, is provided for by the APA.
66-3101	Amended	Name and style changes. Also, the term "Department" (of Professional & Occupational Licensing) was added to this definition section.
66-3102	Amended (Renumbered 82A-1602.17)	This section, providing for the creation and composition of the Board of Nursing Home Administrators, was moved to the Reorganization Act, with name and style changes.
66-3103	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken from this section.
66-3104	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3105	No change	
66-3106	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3107 and 66-3108	No change	
66-3109	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3110	No change	
66-3111	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3112 and 66-3113	No change	
66-3114	Repealed	This section, pertaining to judicial review, is provided for by the APA.

<u>Section</u>	<u>Change</u>	<u>Reason</u>
67-2101	Amended	Style changes. Also, the terms "Board" (of Real Estate) and "Department" (of Professional & Occupational Licensing) were added to this definition section.
67-2102	Amended	Name and style changes
67-2103	Amended	Name and style changes
67-2104	No change	
67-2105	Amended	Name and style changes
67-2106	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2107	Amended	Name and style changes
67-2108	Amended	Name and style changes
67-2109	No change	
67-2110	Amended	Name and style changes
67-2111	No change	
67-2112	Amended	Name change
67-2113	Amended	Name change
67-2114	Amended	Name and style changes. Also, the last sentence of this section was stricken because it refers to a repealed section.
67-2115	No change	
67-2116	Amended	Name and style changes
67-2117	Amended	Style changes. Also, the terms "Board" (of Real Estate), "Department" (of Professional & Occupational Licensing), and "Chairman" (of the Board) were added to this definition section.
67-2118	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2119 and 67-2120	No change	
67-2121	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
66-3201	No change	
66-3202	Amended	Name and style changes. Also, the term "Department" (of Professional & Occupational Licensing) was added to this definition section.
66-3203	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3204	Amended (Renumbered 82A-1602.27)	This section, providing for the creation and composition of the Board of Psychologists, was moved to the Reorganization Act, with name and style changes.
66-3205	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the provision for a report to the Governor was stricken because it is provided for in Section 82-4002.
66-3206	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3207	No change	
66-3208	Amended	Style changes and administrative transfer (see pages 3 and 4 of these comments). Also, an obsolete grandfather clause was stricken from this section.
66-3209	Amended	Style changes. Also, provision for a Board hearing was moved to this section from Section 66-3210.
66-3210	Repealed	This section pertains to procedure for revocation or suspension of licenses; with the exception of hearing provisions, the section is provided for in the APA (see comments under Section 66-3209).
66-3211	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
66-3212 through 66-3214	No change	
67-2003	Amended	Name and style changes
67-2006	No change	

<u>Section</u>	<u>Change</u>	<u>Reason</u>
67-2122	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2123	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2124	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2125	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2126	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2127	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, language was stricken because it is provided for by the APA.
67-2128	Amended	Name and style changes
67-2129	Amended	Name and style changes
67-2130	Repealed	This section, pertaining to judicial review, is provided for by the APA.
67-2131 through 67-2134	No change	
67-2135	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
67-2136	No change	
82-301	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the portions of this section pertaining to the creation and composition of the Board of Athletics were moved to the Reorganization Act.
82-301.1	Added	This section defines the terms "Board" (of Athletics) and "Department" (of Professional & Occupational Licensing).
82-302	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments). Also, the provision for a Board report was stricken, because it is provided for in Section 82-4002.
82-303	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).

<u>Section</u>	<u>Change</u>	<u>Reason</u>
82-304	No change	
82-305	Amended	Name and style changes
82-306	Amended	Name and style changes
82-307	No change	
82-308	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
82-309	Amended	Name and style changes and administrative transfer (see pages 3 and 4 of these comments).
82-310	Amended	Name and style changes
82-311	No change	
82A-1601	No change	
82A-1602	Amended	Stricken from this section was the enumeration of specific agencies allocated to the Department of Professional & Occupational Licensing; the enumeration is unnecessary, because it is provided for elsewhere in this proposed recodification.
82A-1602.4	Added	This section provides for the creation and composition of the Board of Athletics.
82A-1602.6	Added	This section provides for the creation and composition of the Board of Chiropodists.
82A-1602.6	Added	This section provides for the creation and composition of the Board of Podiatrists.
82A-1602.8	No change	
82A-1602.18	Added	This section provides for the creation and composition of the Board of Nurses.
82A-1602.19	Added	This section provides for the creation and composition of the Board of Optometrists.
82A-1602.22	Added	This section provides for the creation and composition of the Board of Plumbers.
82A-1602.23	Added	This section provides for the creation and composition of the Board of Real Estate.
82A-1602.26	Added	This section provides for the creation and composition of the Board of Water Well Contractors.
82A-1603 through 82A-1607	No change	

BUSINESS AND INDUSTRY COMMITTEE

1974 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 635	Require the underground installation of electric power distribution lines in new service areas.	1/8/74	Roberts	2/4/74	AS SO AMENDED DO PASS	2/4/74
HB 647	Amend Sections 70-707 & 93-4215, R.C.M. 1947, to authorize restraining orders	1/8/74	Towe	1/14/74	DO NOT PASS	1/16/74
HB 649	Codification and general revision of the laws relating to the Department of Professional & Occupational Licensing.	1/8/74	Fasbender	1/30/74	DO PASS	1/30/74
HB 653	Requiring a bank to print a picture of the depositor on a personal check.	1/8/74	R. Harper	1/14/74	DO NOT PASS	1/16/74
HB 655	Require the disclosure of mileage during transfer of a motor vehicle.	1/8/74	R. Harper	1/14/74	DO NOT PASS	1/16/74
HB 661	Apply the rulemaking procedures of the administrative procedure act to proceeding for fixing minimum prices by the Board of Milk Control.	1/8/74	Fasbender	1/18/74	DO PASS	1/21/74

Section 112. The publishers of the Revised Codes of Montana, 1947, are directed, under the supervision of the supreme court of Montana, to make the substitutions enumerated in sections 104, 105, 106, 107, 108, 109, 110 and 111 of this act, when reprinting sections or portions of sections of the Revised Codes in either supplements to or replacement volumes for the Revised Codes.

Section 113. Sections 27-618, 69-3408, 69-3409, 69-4101, 69-4103, 69-4105, 69-4107 through 69-4109, 69-4113, 69-4210, 69-4810, 69-4811, 69-4813, 69-5211, 69-5214, 69-5215, 69-5216, 69-5805, 69-6202, 82A-602, 82A-603, and 82A-609 are repealed.

Section 114. This act is effective on passage and approval.

Approved March 28, 1974

CHAPTER NO. 350

AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 54-301, R.C.M. 1947, is amended to read as follows:

"54-301. **Definitions.** As used in this act:

(1) "Administer" means the direct application of a dangerous drug, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) a practitioner (or by his authorized agent), or

(b) the patient or research subject at the direction and in the presence of the practitioner.

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(3) "Board" means the board of pharmacists, provided for in section 82A-1602.21.

(4) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(5) "Dangerous drug" means a drug, substance or immediate precursor in schedules I through V hereinafter set forth.

(6) "Counterfeit substance" means a dangerous drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number of device,

or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the drug.

(7) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a dangerous drug, whether or not there is an agency relationship.

(8) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

(9) "Dispense" means to deliver a dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the drug for that delivery.

(10) "Dispenser" means a practitioner who dispenses.

(11) "Distribute" means to deliver other than by administering or dispensing a dangerous drug.

(12) "Distributor" means a person who distributes.

(13) "Drug" means:

(a) substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts or accessories.

(14) "Immediate precursor" means a substance which the board of pharmacists has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a dangerous drug, the control of which is necessary to prevent, curtail, or limit manufacture.

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a dangerous drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a dangerous drug by an individual for his own use or the preparation, compounding, packaging, or labeling of a dangerous drug:

(a) by a practitioner as an incident to his administering or dispensing of a dangerous drug in the course of his professional practice, or

(b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(16) "Marihuana" means all parts of the plant *cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(17) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the drugs referred to in clause (a), but not including the isoquinoline alkaloids, of opium;

(c) opium poppy and poppy straw;

(d) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these drugs, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(18) "Opiate" means any drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as a dangerous drug under section 54-302 of this act, the dextrorotatory isomer of 3-methoxyn-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(19) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.

(20) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(21) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(22) "Practitioner" means:

(a) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice or research in this state;

(b) a pharmacy or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice or research in this state.

(23) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a substance or drug regulated under the provisions of this act.

(24) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(25) "Ultimate user" means a person who lawfully possesses a dangerous drug for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(26) The term "prescription" shall be given the meaning it has in section 66-1502 (13), R.C.M. 1947."

Section 2. Section 54-302, R.C.M. 1947, is amended to read as follows:

"54-302. **Administration of act — scheduling and rescheduling of drugs — findings — deviations from federal schedules — substances excluded.** (1) The board of pharmacists shall administer this act and may add drugs to or delete or reschedule all drugs enumerated in the schedules in sections 54-305, 54-307, 54-309, 54-311, or 54-313, pursuant to the rule-making procedures of the Montana Administrative Procedure Act (82-4201 through 82-4225). In making a determination regarding a drug, the board shall consider the following:

- (a) the actual or relative potential for abuse;
- (b) the scientific evidence of its pharmacological effect, if known;
- (c) the state of current scientific knowledge regarding the drug;
- (d) the history and current pattern of abuse;
- (e) the scope, duration, and significance of abuse;
- (f) the risk to the public health;
- (g) the potential of the drug to produce psychic or physiological dependence liability; and
- (h) whether the drug is an immediate precursor of a drug already controlled under this act.

(2) After considering the factors enumerated in subsection (1) the board shall make findings with respect thereto and if it finds the drug has a potential for abuse it shall designate such drug a dangerous drug in the manner set forth in the Montana Administrative Procedure Act.

(3) If the board designates a drug as an immediate precursor, drugs which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(4) If any drug is designated, rescheduled, or deleted as a "controlled substance" under federal law and notice thereof is given to the board, the board shall similarly control the drug under this act after the expiration of thirty (30) days from publication in the federal register of a final order designating a drug as a "controlled substance" or rescheduling or deleting a drug, unless within that thirty (30) day period, the board objects to inclusion, rescheduling, or deletion. In that case, the board shall *cause* the reasons for objection *to be published* and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the *department* shall publish *the board's* decision, which shall be final unless altered thereafter by the board or by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this act by the board, control under this act is stayed until the *board's* decision *is published*.

(5) Authority to control under this section does not extend to distilled spirits, liquor, wine, malt beverages, beer, porter, ale, stout or tobacco.

(6) The board shall exclude any non-narcotic drug from a schedule if such drug may, under the Federal Food, Drug, and Cosmetic Act and section 27-716 (a) (2) of the Montana Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.

Section 3. Section 54-303, R.C.M. 1947, is amended to read as follows:

"54-303. **Use of names of drugs in schedules.** The dangerous drugs listed or to be listed in the schedules in sections 54-305, 54-307, 54-309, 54-311, and 54-313 are included by whatever official, common, usual, chemical, or trade name designated."

Section 4. Section 54-314, R.C.M. 1947, is amended to read as follows:

"54-314. **Annual republication of schedules.** The board shall revise and the *department* shall republish the schedules of dangerous drugs annually."

Section 5. Section 54-315, R.C.M. 1947, is amended to read as follows:

"54-315. **Rule to be promulgated by board — fees.** The board shall promulgate rules for its administration which are not inconsistent with this act and specifically shall levy and *the department* shall collect reasonable registration fees relating to the registration and control of the manufacture, distribution, and dispensing of dangerous drugs within the state; provided, however, the maximum fee for any registration shall not exceed one hundred dollars (\$100) per year."

Section 6. Section 54-316, R.C.M. 1947, is amended to read as follows:

"54-316. **Annual registration required for manufacturer, distributor or dispenser — exceptions — inspection.** (1) Every person who manufactures, distributes, or dispenses any dangerous drug within this state must, on and after January 1, 1974, obtain annually a registration issued by the *department* in accordance with *board* rules.

(2) Persons registered by the board under this act to manufacture, distribute, dispense, or conduct research with dangerous drugs may possess, manufacture, distribute, dispense, or conduct research with those

drugs to the extent authorized by their registration and in conformity with the other provisions of this act.

(3) The following persons need not register and may lawfully possess dangerous drugs under this act:

(a) an agent or employee of any registered manufacturer, distributor, or dispenser of any dangerous drug if he is acting in the usual course of his business or employment;

(b) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any dangerous drug is in the usual course of business or employment;

(c) an ultimate user or a person in possession of any dangerous drug pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V drug;

(d) officers and employees of the state or a political subdivision of the state, while acting in the course of their official duties.

(4) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(5) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses dangerous drugs.

(6) The board may *have* the establishment of a registrant or applicant for registration *inspected*.

Section 7. Section 54-317, R.C.M. 1947, is amended to read as follows:

"54-317. **Manufacturers and distributors registered unless against public interest — factors considered — practitioners' authority — research with Schedule I drugs — federal registration.**

(1) The board shall register an applicant to manufacture or distribute dangerous drugs included in sections 54-305, 54-307, 54-309, 54-311 and 54-313 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(a) maintenance of effective controls against diversion of dangerous drugs into other than legitimate medical, scientific, or industrial channels;

(b) compliance with applicable state and local law;

(c) any convictions of the applicant under any federal and state laws relating to any dangerous drug;

(d) past experience in the manufacture or distribution of dangerous drugs, and the existence in the applicant's establishment of effective controls against diversion;

(e) furnishing by the applicant of false or fraudulent material in any application filed under this act;

(f) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense dangerous drugs as authorized by federal law; and

(g) any other factors relevant to and consistent with the public health and safety.

(2) Registration under subsection (1) does not entitle a registrant to manufacture and distribute dangerous drugs in Schedule I or II other than those specified in the registration.

(3) Practitioners shall be registered to dispense any dangerous drugs or to conduct research with dangerous drugs in Schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The board need not require separate registration for practitioners engaging in research with non-narcotic dangerous drugs in Schedules II through V where the registrant is already registered under this act in another capacity. Practitioners registered under federal law to conduct research with Schedule I drugs may conduct research with Schedule I drugs within this state upon furnishing the board evidence of that federal registration.

(4) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this act."

Section 8. Section 54-318, R.C.M. 1947, is amended to read as follows:

"54-318. **Suspension or revocation of registration — grounds.** (1) A registration under section 54-316 to manufacture, distribute, or dispense a dangerous drug may be suspended or revoked by the board upon a finding that the registrant:

(a) has furnished false or fraudulent material information in any application filed under this act;

(b) has been convicted of a felony under any state or federal law relating to any dangerous drug or controlled substance; or

(c) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(2) The board may limit revocation or suspension of a registration to the particular dangerous drug with respect to which grounds for revocation or suspension exist.

(3) If the board suspends or revokes a registration, all dangerous drugs owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of drugs under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable drugs and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all dangerous drugs may be forfeited to the state.

(4) The board shall promptly *cause* the bureau *to be notified* of all orders suspending or revoking registration and all forfeitures of dangerous drugs."

Section 9. Section 54-319, R.C.M. 1947, is amended to read as follows:

"54-319. **Procedure for denial, suspension, revocation or refusal to renew registration.** (1) Before denying, suspending or revoking a registration, or refusing a renewal of registration, the board shall *cause to be served* upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall require the applicant or registrant to appear before the board at a time and place not less than thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty (30) days before the expiration of the registration. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(2) The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 54-317 or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants such action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction."

Section 10. Section 54-322, R.C.M. 1947, is amended to read as follows:

"54-322. **Prescription and medical requirements for scheduled drugs.** (1) No dangerous drug in Schedule II may be dispensed without the written prescription of a practitioner.

(2) In emergency situations, as defined by rule of the board, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 54-319. No prescription for a Schedule II drug may be refilled.

(3) A dangerous drug included in Schedule III or IV, which is a prescription drug as determined under the federal or Montana food, drug and cosmetic acts shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.

(4) A dangerous drug included in Schedule V shall not be distributed or dispensed other than for a medical purpose."

Section 11. Section 54-323, R.C.M. 1947, is amended to read as follows:

"54-323. **Educational programs — research — information confidential — possession of drugs by researchers.** (1) The board shall carry out educational programs designed to prevent and deter misuse and abuse of dangerous drugs. In connection with these programs it may:

(a) promote better recognition of the problems of misuse and abuse

of dangerous drugs within the regulated industry and among interested groups and organizations;

(b) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of dangerous drugs;

(c) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of dangerous drugs;

(e) disseminate the results of research on misuse and abuse of dangerous drugs to promote a better public understanding of what problems exist and what can be done to combat them; and

(f) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of dangerous drugs.

(2) The board shall encourage research on misuse and abuse of dangerous drugs. In connection with the research, and in furtherance of the enforcement of this act, it may:

(a) establish methods to assess accurately the effects of dangerous drugs and identify and characterize those with potential for abuse;

(b) make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act;

(ii) determine patterns of misuse and abuse of dangerous drugs and the social effects thereof; and

(iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of dangerous drugs; and

(c) request the department to enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of dangerous drugs.

(3) The board may authorize persons engaged in research on the use and effects of dangerous drugs to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(4) The board may authorize the possession and distribution of dangerous drugs by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of dangerous drugs to the extent of the authorization."

Section 12. Section 62-501, R.C.M. 1947, is renumbered 82A-1602.13, and is amended to read as follows:

"82A-1602.13. Board of horse racing created — appointment — removal. (1) There is a board of horse racing.

(2) The board consists of five (5) members, appointed by the governor with the consent of the senate, who shall be citizens, residents and qualified electors of this state. At least one (1) member shall be a breeder of racing horses; one (1) member shall be a member of an independent horse racing association; one (1) member shall be a member of a county fair board that conducts a fair featuring parimutuel betting; and two (2) members shall have occupations unrelated to horseracing.

(3) The governor shall not appoint any member who resides in the same county as a current member. The governor shall appoint members on the basis of experience, qualifications, and a reasonable geographical balance throughout the state.

(4) Each member shall serve for a term of three (3) years. A member may be removed from office by the governor only for cause."

Section 13. Section 62-502, R.C.M. 1947, is amended to read as follows:

"62-502. Definitions. Unless the context requires otherwise, in this chapter:

(1) "Board" means the board of horse racing, provided for in section 82A-1602.13.

(2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

(3) "Persons" means individuals, firms, corporations, and associations.

(4) "Race meet" means an exhibition of thoroughbred, purebred, or registered horse racing where the parimutuel system of wagering is used."

Section 14. Section 62-503, R.C.M. 1947, is amended to read as follows:

"62-503. Chairman — quorum — costs. (1) The board shall organize by electing one (1) of its members chairman. Three (3) members of the board shall constitute a quorum for the transaction of business by the board.

(2) The board may incur costs, charges, and expenses reasonably necessary to carry out this act.

(3) Each member may be paid twenty-five dollars (\$25) for each day in which he is actually and necessarily engaged in the performance of board duties, and shall also be reimbursed for actual and necessary expenses incurred in his official service."

Section 15. Section 62-504, R.C.M. 1947, is amended to read as follows:

"62-504. **Department's report — public record.** (1) The department shall keep detailed records of board meetings and of the business transacted at the meetings, and licenses applied for and issued.

(2) Records of the board kept by the department are public records, subject to public inspection."

Section 16. Section 62-505, R.C.M. 1947, is amended to read as follows:

"62-505. **Duties of board, department, and licensees — license fee.** The board shall adopt rules to govern race meets and the parimutuel system. These rules shall include the following: definitions, auditing, and supervision of the parimutuel system, corrupt practices, supervision, duties and responsibilities of the presiding steward, racing secretary and other racing officials, licensing of all personnel who have anything to do with the substantive operation of racing, the establishment of dates for race meets and meetings in the best interests of breeding and racing in this state, and the veterinary practices and standards which must be observed in connection with race meets. A person who participates in a race meet shall be licensed and charged an annual fee not to exceed ten dollars (\$10), which shall be paid to the department and used for expenses of the board, subject to section 82A-1603(6). Each person holding a license under this chapter, and every owner, trainer, jockey, and attendant at a race course in this state, shall comply with this chapter and with the rules adopted and orders issued by the board."

Section 17. Section 62-506, R.C.M. 1947, is amended to read as follows:

"62-506. **Authority of board.** The board shall, subject to sections 82A-1603 and 82A-1604, license, regulate, and supervise race meets held in this state under this chapter, and shall have the places where race meets are held visited and inspected at least once a year."

Section 18. Section 62-507, R.C.M. 1947, is amended to read as follows:

"62-507. **License — application therefor — type and number of races — fee per day — refund — cancellation — hearing.** (1) It is unlawful for a person to hold a race meet in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet, under this chapter, shall file an application with the department which shall set forth the time, place, and number of days the license will continue, and other information the board requires.

(2) A person who has been convicted of a crime involving moral turpitude may not be issued a license of any kind, nor may a license be issued to a person who has violated this chapter or the rules of the board, or who has failed to pay the fees, taxes, or moneys required under this chapter.

(3) Applications to hold race meets shall be submitted to the department, and the board shall act on the applications within thirty (30) days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(4) The board shall require that a fairboard conducting race meets in conjunction with its regularly scheduled fair shall meet the requirements of the rules adopted by the board before granting a license. An unexpired license held by a person who violates this chapter, or who fails to pay to the department the sums required under this chapter, is subject to cancellation and revocation by the board."

Section 19. Section 62-508, R.C.M. 1947, is amended to read as follows:

"62-508. **Penalty for violations of law — power of board.** (1) A person holding a race meet, and an owner, trainer, or jockey participating in a race meet, without first being licensed under this chapter, and a person willfully violating this chapter is guilty of a misdemeanor.

(2) The board may exclude from race courses in this state a person who the board considers detrimental to the best interest of racing, or a person who willfully violates this chapter or a rule or order of the board.

(3) It is lawful to conduct race meets at a race track or otherwise, at any time during the week."

Section 20. Section 62-509, R.C.M. 1947, is amended to read as follows:

"62-509. **Race exclusively for Montana bred horses — bonus for winner.** (1) For the purpose of encouraging the breeding, in this state, of valuable thoroughbred, purebred, quarter horse, appaloosa, or registered horses, at least one (1) race each day at each race meet shall be limited to horses bred in this state. If, in the opinion of the board sufficient competition cannot be had among this class of horses, the race may be eliminated for the day and a substitute race provided instead.

(2) A sum equal to ten per cent (10%) of the first money of every purse won by a horse bred in this state shall be paid by the licensee conducting the race meet to the breeder of the horse."

Section 21. Section 62-510, R.C.M. 1947, is amended to read as follows:

"62-510. **Public liability insurance.** For the protection of the public, exhibitors, and visitors, a person licensed to conduct a race meet under this chapter shall carry public liability insurance in an amount and form of contract approved by the board."

Section 22. Section 62-511, R.C.M. 1947, is amended to read as follows:

"62-511. **Parimutuel betting — other betting illegal.** (1) It is unlawful to make, report, record, or register a bet or wager on the result of a contest of speed, skill, or endurance of an animal, whether the contest is held within or outside of this state, except under this chapter.

(2) A licensee conducting a race meet under this chapter may provide a place in the race meet grounds or enclosure where the licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted by the licensee at the race meet, if the

parimutuel system is conducted under this chapter and the rules of the board.

(3) It is unlawful to conduct pool selling, book making, or to circulate handbooks, or to bet or wager on a race of a licensed race meet, other than by the parimutuel system, and in the race meet grounds or enclosure where the race is held, or to permit a minor to use the parimutuel system."

Section 23. Section 62-514, R.C.M. 1947, is amended to read as follows:

"62-514. **Gross receipts — department's percentage — collection and allocation.** The licensee shall pay to the department one per cent (1%) of the gross receipts of each day's parimutuel betting at each race meet, which sums shall be paid to the department within five (5) days after receipt by the licensee. At the end of each race meet the licensee shall prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments the balance shall be paid to the department. Money paid to the department may be used for the expenses incurred in carrying out this chapter."

Section 24. Section 66-101, R.C.M. 1947, is renumbered 82A-1602.3, and is amended to read as follows:

"82A-1602.3. **Board of architects — appointment — qualifications — term.** (1) There is a board of architects.

(2) The board consists of three (3) members, appointed by the governor with the consent of the senate. Each member shall be a skilled and capable architect, who has been in continuous practice for three (3) years before his appointment. Not more than two (2) members shall be residents of the same county.

(3) Each member shall serve for a term of three (3) years."

Section 25. Section 66-102, R.C.M. 1947, is amended to read as follows:

"66-102. **Organization of board — powers, meetings and records.**

(1) The board of architects must, during the first week in April of each year, elect from among its number a president, secretary, and treasurer, and must have a seal.

(2) The president and secretary may administer oaths in the examination of applications for certificates, and to witnesses called before the board for the transaction of business under this act.

(3) The board shall meet during the first week of April of each year, and at other times, at places the board determines.

(4) The department of professional and occupational licensing must keep a record of proceedings of the board, and also a register of applicants for a certificate, with the name and age of applicants and the number of years spent in the study of architecture, and whether the applicant was granted a certificate or rejected. The register is prima facie evidence of the matters contained in it."

Section 26. Section 66-103, R.C.M. 1947, is amended to read as follows:

"66-103. **Definitions — examinations for certificates to practice — granting of certificates — registration without examination under certain circumstances.** (1) Except as provided in this act, no person may practice architecture in this state or use the title "architect" or "registered architect," or any words, letters, figures, or other device indicating or intending to imply that he is an architect, without having qualified under this act.

(2) Unless the context requires otherwise, in this act:

(a) "Practice of architecture" means rendering or offering to render services by consultations, preliminary studies, drawings, specifications, or other service in connection with the design of a building or addition or alteration thereto, whether one or all of these services are performed either in person or as the directing head of an organization.

(b) "Architect" means an individual technically and legally qualified to practice architecture and who is authorized under this act to practice architecture.

(c) "Building" means a structure intended primarily for human occupancy or use.

(d) "Board" means the board of architects, provided for in section 82A-1602.3.

(e) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

(3) A person wishing to practice architecture in this state shall apply to the department for a certificate to do so. A person applying shall have successfully completed the requirement of prerequisites in education, practical experience and a written examination as prescribed by the board in conformance with the standard national council of architectural registration boards examination and grading procedure. After examination the department shall, if the candidate has been found qualified, grant a certificate to the candidate to practice architecture in this state, which may only be granted on the consent of not less than two (2) members of the board, and attested by the secretary, and have the seal of the board attached. However, an architect holding a valid and current license to practice in another state, territory or country will be granted a certificate to practice in Montana following presentation of a certificate issued by national council of architectural registration boards and approved by the board. But no arrangement may be made under this section which may lower the standard of practice of architecture in this state. The board may, if considered necessary, require an examination of applicants for a license from other states, after careful consideration of the credentials from those states. The board shall by rule establish methods and procedures for investigation of applicants for a license by reciprocity."

Section 27. Section 66-108, R.C.M. 1947, is amended to read as follows:

"66-108. **Fees payable by applicants for examination — disposi-**

tion of fees. (1) Applicants for examination shall pay in advance to the department a fee set by the board, *commensurate with the cost*, which shall defray the entire *examination* expense of the candidate. An applicant failing to pass the examination is entitled to a second examination within one (1) year on payment of a reasonable fee, prescribed by the board.

(a) The money received from the applicant shall be deposited in the earmarked revenue fund for the use of the board, *subject to section 82A-1603(6).*"

Section 28. Section 66-109, R.C.M. 1947, is amended to read as follows:

"66-109. Compensation of members of board — disposition and use of funds — report. (1) Each member of the board is allowed the sum of twenty-five dollars (\$25) per day plus mileage in accordance with section 59-801 and actual and necessary expenses while in the discharge of his actual duties.

(2) All fees and moneys received by the department for licenses from practicing architects shall be deposited in the earmarked revenue fund for the use of the board, *subject to section 82A-1603(6).*"

Section 29. Section 66-110, R.C.M. 1947, is amended to read as follows:

"66-110. Annual fee of licensed architects. A licensed architect in this state who desires to continue the practice of his profession shall annually, during the time he *continues* in this practice, pay to the department, during the month of July, a fee of twenty dollars (\$20)."

Section 30. Section 66-111, R.C.M. 1947, is amended to read as follows:

"66-111. Architects moving from state to be granted demit. A licensed architect moving from the state may receive a demit from the board, and if he desires to re-establish himself in the state, the department will issue a certificate to him without examination, *if he pays* the regular license fee."

Section 31. Section 66-112, R.C.M. 1947, is amended to read as follows:

"66-112. Revocation of certificate. (1) The board may revoke a certificate if proof satisfactory to the board is presented of the following: (a) The certificate was obtained through fraud or misrepresentation; (b) The holder of the certificate has been found guilty by the board or by a court of justice of fraud or deceit in his professional practice or has been convicted of a felony by a court of justice; (c) The holder of the certificate has been found guilty by the board of gross incompetency or of recklessness in the planning or construction of buildings; (d) The holder of the certificate has been found guilty by the board of any of the following acts which constitute unprofessional conduct: (i) Willful departure in a material respect from approved plans or specifications without the consent of the owner or his authorized representative; (ii) Willful violation of the building codes of this state or a political subdivision; (iii) Aiding or abet-

ting an unlicensed person to violate or evade this act; or (iv) Sealing or signing plans or specifications not prepared under his direct supervision and control; or (e) The holder of the certificate has violated standards of professional conduct adopted by the board.

(2) A certificate may not be revoked until the party holding the certificate is given notice and an opportunity for a hearing.

If the board's findings and conclusions are adverse to the accused, his certificate stands revoked and annulled at the expiration of thirty (30) days from the final decision adverse to the party."

Section 32. Section 66-113, R.C.M. 1947, is amended to read as follows:

"66-113. Architects on public buildings must hold certificate from board. A contract for the employment of or the rendering of professional services by an architect relating to the planning or construction of public buildings or other public works or improvements may not be entered into by this state or its agencies, or a county, city, or school district in this state unless the architect is the holder in good standing of a certificate granted by the board entitling him to practice architecture in this state."

Section 33. Section 66-401, R.C.M. 1947, is amended to read as follows:

"66-401. Sanitation of barbershops, barber schools and barber colleges and definition of term barbershop. (1) Barbershops, barber schools, and barber colleges shall be operated and maintained in a sanitary condition in order to preserve the public health and prevent the spread of disease. The board of barbers and the department of health and environmental sciences may adopt rules to preserve the public health and prevent the spread of disease. A barber, or barber apprentice may not receive a certificate of registration or renewal until he has presented to the board of barbers a physician's certificate showing him to be free of physical ailments that would tend to endanger the health of the public, and a person practicing barbering without a certificate of registration is guilty of a violation of this chapter.

(2) It is unlawful for a barber, barber apprentice, or student of barbering to practice the occupation of a barber, or do barber work while he has an infectious, contagious, or communicable disease that would endanger the health of the public.

(3) If a barber or barber apprentice, after securing his certificate, contracts a communicable, infectious, or contagious disease, endangering the public health, the board of barbers shall revoke or suspend his certificate of registration until the board has satisfactory proof that the barber or barber apprentice is no longer afflicted with the communicable, infectious, or contagious disease."

Section 34. There is a new section to be numbered 66-401.1, R.C.M. 1947, which reads as follows:

66-401.1. Definitions. Unless the context requires otherwise, as used in this chapter:

(1) "Barbershop" means a place where a person carries on, engages in, practices, or causes to be carried on, engaged in, or practiced the business of barbering.

(2) "Board" means the board of barbers, provided for in section 82A-1602.5.

(3) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 35. Section 66-403, R.C.M. 1947, is amended to read as follows:

"66-403. Licensing and registration of barbers, barbershops, barber schools and barber colleges, prohibiting barber schools and colleges from charging patrons for services. (1) A person is qualified to receive a certificate of registration to practice barbering only by serving as an apprentice barber and successfully passing an examination conducted by the department, subject to section 82A-1603, to determine his fitness to practice barbering.

(2) An apprentice, under this chapter, is a person who receives instruction in an approved barber school or college and from a barber authorized to practice barbering in this state.

(3) An apprentice must file with the department an application setting forth the following information:

- (a) Full name and age of apprentice;
- (b) Name and place of approved barber school;
- (c) Dates of attendance at approved barber school;
- (d) Whether the applicant received a certificate of graduation from an approved barber school; and
- (e) Other information the board considers necessary.

(4) An apprentice applicant must successfully pass an apprentice examination conducted by the department, subject to section 82A-1603, and pay to the department the required fee. The department shall then issue an apprentice barbering card which expires two (2) years from the date of examination.

(5) A registered apprentice may not independently practice or engage in the practice of barbering; however, he may do the acts which constitute the practice of barbering when done under the immediate personal supervision of a registered barber.

(6) A school or college of barbering may not be approved by the board unless it teaches the curriculum of the standardized schools approved by the national education council of barber examiners. Students of schools or colleges may, after attending the schools for a period of nine (9) months, make application to the department for an apprenticeship card to practice barbering under the immediate personal supervision of a licensed barber for the period of one (1) year.

(7) On completion of one (1) year of apprenticeship under the immedi-

ate personal supervision of a licensed barber, an apprentice must apply to the department to take the examination for a barber's certificate of registration. An apprentice may take the examination for a barber's certificate of registration as many as three (3) times before expiration of the apprentice card. If an apprentice fails to pass the examination for a barber's certificate of registration three (3) times, he shall surrender the apprentice card to the department and may not be authorized to do the acts which constitute the practice of barbering.

(8) A barbershop, school, or college must be conducted at a fixed place of establishment. A person or corporation may not open or maintain a barbershop, school, or college, or hold himself or itself out as engaging in or conducting a barbershop, school, or college, unless first licensed by the board. A barber school or college operating in this state must have in charge a person who has had ten (10) years' continuous experience as a barber. The owner of the school or college shall first secure a permit, granted by the board and issued by the department, to operate, on payment of an annual license fee of fifty dollars (\$50), and shall keep the permit prominently displayed, and shall, before commencing business, file with the secretary of state a bond to this state, which shall be approved by the attorney general, in the sum of two thousand dollars (\$2,000), conditioned on the faithful compliance of the barber school or college with this chapter, and the payment of judgments that may be obtained against the school, college, or owner on account of fraud, misrepresentation, or deceit practiced by them, or by their agents. Barber schools or barber colleges may not charge patrons for barbering services and materials rendered. All barber schools or colleges shall keep prominently displayed a substantial sign as a barber school or barber college. All barber schools or colleges on receiving students shall immediately apply to the department for student permits on blank forms prescribed by the board.

(9) An application for a barbershop, school, or college license shall be in writing and verified on a form prescribed by the board. On receipt by the department of an application for a license, and on payment to the department of the initial inspection fee, the board shall have an investigation and inspection made as to the character of the applicant, and on notice and after hearing shall report its findings to the department, which shall grant a license, if the board finds that the applicant is of good character, and that the proposed barbershop, school, or college is equipped and will be conducted as required under this chapter. The application must be granted or refused within thirty (30) days from the date of filing of the application or within fifteen (15) days after the hearing on the application if a hearing is held.

(10) A barbershop license may not be issued to anyone except one who holds a valid barber's certificate under this chapter, and a barbershop may not be maintained or conducted except by one who holds a barbershop license issued by the department under this chapter, and this certificate or license is not transferable as to person or place.

(11) Before a license is issued to conduct a barbershop, school, or college in this state the barbershop, school, or college must be inspected by the department and approved by the board and shall meet the following requirements:

(a) *It must* have both hot and cold running water connected with the city water supply. In villages or towns where running water is not available, hot water tanks shall have not less than a two (2) gallon capacity with gravity pressure. Waste water shall be disposed of through some system, carrying it away from the building. This shall be done by sewer connections, or in a manner meeting the requirements of the department of health and environmental sciences rules, city ordinances, and having the approval of the city or village board of health, as required by law.

(b) The headrest of a barber chair must be equipped so that each customer will be supplied with a clean, fresh paper or towel.

(c) *It must* have a closed cabinet for each chair, to keep instruments in when not in use, and must have proper sterilization equipment for immersing instruments before use on each customer.

(d) *It must* have a sufficient number of towels so that each customer will be served with a clean laundered towel.

(e) *It must* be well-lighted, well-ventilated, and kept in a clean, orderly and sanitary condition at all times.

(f) *It must* pay to the department the required fee.

(12) *Barbershops*, barber schools, or colleges shall be open for inspection during business hours, to members of the department. An owner or manager of a barbershop licensed under this chapter shall make certain that each barber employed holds a certificate to practice barbering in this state, and that employees observe the sanitary rules of the department of health and environmental sciences and the department and report to the department the name of a person practicing barbering therein, who has a communicable disease."

Section 36. There is a new section to be numbered 66-403.1, R.C.M. 1947, which reads as follows:

66-403.1. Refusal to issue, renew, or suspend licenses — hearing. The board may, after notice and opportunity for a hearing, either refuse to issue or renew, or may suspend or revoke a barbershop, or barber school or college license for any one or combination of the following causes:

(1) The violation of any of the provisions of subdivisions (a) through (e) of subsection 11 of section 66-403, subsection 12 of section 66-403, and section 66-405;

(2) Conviction of a felony, shown by a certified copy of the record of the court of conviction;

(3) Gross malpractice or gross incompetency;

(4) Continued practice by a person knowingly having an infectious or contagious disease;

(5) Advertising by means of knowingly false or deceptive statements;

(6) Advertising, practicing, or attempting to practice under a trade name other than one's own;

(7) Habitual drunkenness or addiction to the use of morphine, cocaine, or other habit-forming drugs;

(8) The commission of any of the offenses described in section 66-409.

Section 37. Section 66-405, R.C.M. 1947, is amended to read as follows:

"66-405. Display of certificate and license. (1) A holder of a certificate of registration shall display it in a conspicuous place, adjacent to or near his work chair.

(2) A license to operate a barbershop, school, or college shall specify the name of the licensee and shall be kept in a conspicuous place in the barber shop, school, or college. A barber shop, school, or college may not be conducted or held out as being conducted under any name except the name appearing as licensee on the license issued by the department.

(3) A barber shop shall display a schedule of prices in a conspicuous place."

Section 38. Section 66-406, R.C.M. 1947, is renumbered 82A-1602.5, and is amended to read as follows:

"82A-1602.5. Board of barbers — appointment — qualifications — term. (1) *There is a board of barbers.*

(2) *The board consists of three (3) members appointed by the governor. Each member shall be a practicing barber who has been a barber in this state for at least five (5) years immediately before his appointment.*

(3) *Each member shall serve for a term of three (3) years. The governor may remove a member for cause."*

Section 39. Section 66-407, R.C.M. 1947, is amended to read as follows:

"66-407. Officers, official seal. The board shall elect a president, secretary, and treasurer. It shall adopt a seal for the authentication of its orders and records. The department shall keep a record of proceedings of the board. Money collected by the department shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 40. Section 66-408, R.C.M. 1947, is amended to read as follows:

"66-408. Compensation. Each member of the board shall receive a compensation of twenty-five dollars (\$25) per day while attending board meetings plus legitimate and necessary expenses incurred in attending meetings of the board."

Section 41. Section 66-409, R.C.M. 1947, is amended to read as follows:

"66-409. Powers and duties. (1) The department shall, subject to section 82A-1603, conduct practical examinations of applicants for apprentice cards and for certificates of registration to practice as regis-

tered barbers, not less than four (4) times each year at *times* and places the board *determines*. The examinations shall cover the fundamentals of barbering, dermatology, and sanitation. The *department* shall issue apprentice cards and certificates of registration.

(2) The board *may* approve price agreements, establishing minimum prices for barber work, signed and submitted to the board by *an* organized group or groups of at least *seventy-five percent (75%)* of the barbers in a city or town, *if* the board after ascertaining by investigations and proofs as the *situation* permits and requires, *finds* that the price agreement is just and will best protect the public health and safety by affording a sufficient minimum price for barber work to enable the barbers to furnish modern and healthful services and appliances to minimize the danger to the public health incident to *this* work. *Under this chapter*, a city or town *includes*, in addition to the territory within its legal limits, the territory adjacent to it and lying within three (3) miles of its legal limits. In determining whether a price agreement is just and will best protect the public health and safety, the board shall take into consideration all conditions affecting the barber business in its relation to the public health and safety.

(3) In determining reasonable minimum prices the board shall take into consideration the necessary cost incurred in the city or town to *maintain* a barbershop in a clean, healthful, and sanitary condition.

(4) The board, after making *an* investigation, shall fix by order the minimum price for work usually performed in a barbershop in the city or town in which the price agreement has been signed. The board may, on the petition of *fifty percent (50%)* of the barbers of the city or town, readjust the minimum prices, and the new prices must be approved by *seventy-five percent (75%)* of the barbers in the city or town. *This section does not* apply to students who have been enrolled less than *nine (9)* months in a barber college in *this* state or until they become apprentice barbers.

(5) The board *may* adopt rules for the administration of this chapter.

(6) *A person hired by the department to make an inspection of a barber-shop, school, or college shall be recommended by the board.*

He shall receive thirty dollars (\$30) per day plus actual and necessary expenses."

Section 42. Section 66-410, R.C.M. 1947, is amended to read as follows:

"66-410. **Penalty.** A person practicing the occupation of a barber without first having obtained a license, *under this chapter*, or a person knowingly employing a barber who has not obtained a license, or a person who falsely pretends to be qualified to practice *the* occupation of a barber, or a person who violates this chapter is guilty of a misdemeanor, and on conviction shall be *fin*ed not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200), or *imprisoned* in the county jail for not less than ten (10) days nor more than ninety (90) days, or both. In addition, the board may, after hearing, suspend or revoke a barber's certificate

of registration, or license to operate a barber shop, school, or college, or both, by reason of *the* person willfully violating this chapter or persistently failing to conform to the rules *adopted* by the board."

Section 43. Section 66-411, R.C.M. 1947, is amended to read as follows:

"66-411. **Fees to be paid by apprentices, students, barbers, barbershops and training programs.** (1) The fee to be paid by an apprentice for an apprentice examination and an apprentice card is twenty-five dollars (\$25). The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering is twenty dollars (\$20), and for the issuance of the certificate an additional ten dollars (\$10).

(2) A person registered as a barber or barber apprentice shall, before July 1 of each year, pay a license fee of ten dollars (\$10) for the renewal of his certificate of registration. *If a barber fails to have the certificate renewed before July 1 of each year the barber shall on renewal of the certificate of registration pay a penalty of ten dollars (\$10), in addition to the regular fee of ten dollars (\$10). If a certificate of registration is not renewed within one (1) year after the date of expiration, the barber is not entitled to have the certificate of registration renewed, or a new certificate of registration issued, without first applying for and taking the examination and paying the fees provided for in this section. However, physically handicapped persons, trained for the barber profession by the department of social and rehabilitation services and certified by that department as having successfully completed a nine (9) month course in a reputable barber college are not required to pay fees, and are for a period of one (1) year immediately following their training exempt from all except the sanitary provisions of this chapter. No other or additional license or fee may be imposed on barbers or barber apprentices by a municipality or other subdivision of this state.*

(3) In addition to the fees and charges now provided by law, barbershops heretofore established, and which have been under the inspection of the board shall pay an annual license fee of ten dollars (\$10). Barbershops hereafter established shall pay an initial inspection fee of twenty dollars (\$20) for the first year or portion thereof, and shall pay an annual license fee of ten dollars (\$10).

(4) *Barbershop, school, or college licenses expire on July 1 of each year, following the issuance of the license, and an owner or manager of a barbershop, school, or college which continues in active operation shall annually, before July 1, renew his barbershop, school, or college license and pay the required fee. A barbershop which fails to have the license renewed before July 1 of each year shall, on renewal, pay a penalty of ten dollars (\$10), and a barber school or college which fails to have the license renewed before July 1 of each year shall, on renewal, pay a penalty of fifty-five dollars (\$55).*

Any person conducting in this state any advanced barber training program, clinic, or seminar for barbers as defined in this chapter, shall pay an annual license fee of fifty dollars (\$50) to the *department*, or a ten

(10) day license fee of fifteen dollars (\$15), and display the license while operating. Any such advanced barber training program, clinic, or seminar may be inspected by the *department* at reasonable times during operation."

Section 44. Section 66-412, R.C.M. 1947, is amended to read as follows:

"66-412. **Barber's registration and license.** (1) *A person may not practice or attempt to practice barbering or serve or attempt to serve as a barber apprentice unless he first receives from the department a certificate of registration.*

(2) *It is unlawful to operate a barber shop, school, or college unless it has first been issued a license by the department under this chapter.*"

Section 45. Section 66-501, R.C.M. 1947, is renumbered 82A-1602.7, and is amended to read as follows:

"82A-1602.7. **Board of chiropractors — appointment — qualifications — term.** (1) *There is a board of chiropractors.*

(2) *The board consists of three (3) members appointed by the governor. The members shall be practicing chiropractors of integrity and ability who shall be residents of this state, and who have practiced chiropractic continuously in this state for at least one (1) year. No two (2) members shall be graduates of the same school or college of chiropractic.*

(3) *Each member shall serve for a term of three (3) years. A member may be removed from office by the governor on sufficient proof of the member's inability or misconduct.*"

Section 46. There is a new section to be numbered 66-501.1, R.C.M. 1947, which reads as follows:

66-501.1. **Definitions.** Unless the context requires otherwise, in this chapter:

(1) "Board" means the board of chiropractors, provided for in section 82A-1602.7.

(2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 47. Section 66-503, R.C.M. 1947, is amended to read as follows:

"66-503. **Organization of board — meetings — powers and duties.** (1) *The board shall elect annually a president, vice-president, and secretary-treasurer from its membership.*

(2) *The board shall hold a regular meeting on the first Tuesday of October in each year at Helena, and shall hold special meetings at times and places as a majority of the board designates. Not more than four (4) meetings may be held in any one (1) year. A majority of the board constitutes a quorum.*

(3) *The board may administer oaths, take affidavits, summon wit-*

nesses, and take testimony as to matters coming within the scope of the board. *It shall adopt a seal, which shall be affixed to licenses issued, and shall make rules necessary for the performance of its duties, and shall make a schedule of minimum educational requirements, which are without prejudice, partiality, or discrimination as to the different schools of chiropractic. The department shall keep a record of the proceedings of the board, which shall at all times be open to public inspection.*"

Section 48. Section 66-504, R.C.M. 1947, is amended to read as follows:

"66-504. **Practicing without license — temporary permits.** (1) *It is unlawful for a person to practice chiropractic in this state without first obtaining a license under this act.*

(2) *When application for examination for license is filed with the department, under section 66-505, the board may authorize the department to issue to the applicant a temporary permit to practice, which is good until the next meeting of the board.*"

Section 49. Section 66-505, R.C.M. 1947, is amended to read as follows:

"66-505. **Applications to practice — fees for license.** (1) *A person wishing to practice chiropractic in this state shall make application to the department on the form and in the manner prescribed by the board, at least fifteen (15) days prior to a meeting of the board. Each applicant shall be a graduate of a college of chiropractic approved by the board in which he has attended a course of study of four (4) school years of not less than nine (9) months each, and shall present evidence showing completion of two (2) full academic years of college or university work from an institution acceptable to the board of education. Application shall be made in writing and shall be sworn to by an officer authorized to administer oaths, and shall recite the history of applicant's educational qualifications, how long he has studied chiropractic, of what school or college he is a graduate, and the length of time he has been engaged in practice, accompanying the same with proofs by diplomas, certificates, etc., and shall accompany the application with satisfactory evidence of good character and reputation.*

(2) *There shall be paid to the department, by an applicant for a license, a fee of fifty dollars (\$50), twenty-five dollars (\$25) of which shall accompany the application and the remainder shall be paid on the issuance of the license. Like fees shall be paid for a subsequent examination and application.*"

Section 50. Section 66-506, R.C.M. 1947, is amended to read as follows:

"66-506. **Examinations — subjects embraced in.** (1) *Examinations for a license to practice chiropractic shall be made by the department subject to section 82A-1603, according to the method considered by the board to be the most practicable and expeditious to test the applicant's qualifications. The application shall be designated by a number instead of the applicant's name, so that the identity will not be discovered or disclosed until after the examination papers are graded.*

(2) *Examinations* shall be made in writing, the subjects of which are as follows: *anatomy, physiology, symptomatology, diagnosis, chiropractic orthopedy, principles of chiropractic and adjusting, sanitation and hygiene, urinalysis, gynecology, and palpation.* Additional subjects may be prescribed by the board to meet new conditions. A license shall be granted to applicants who correctly answer seventy-five percent (75%) of all questions asked, and if an applicant fails to answer correctly sixty percent (60%) of the questions on any branch of the examination, he is not entitled to a license.

(3) The board may accept the grades an applicant has received in the written examinations given by the national board of chiropractic examiners and may *authorize the department to issue* a license without further written examination to an applicant who holds a valid certificate from the national board of chiropractic examiners, *if the applicant meets the other requirements of this chapter and satisfactorily passes a practical examination before the department, subject to section 82A-1603.*"

Section 51. Section 66-510, R.C.M. 1947, is amended to read as follows:

"66-510. **Refusal and revocation of license — proceedings — reinstatement.** (1) The board may *revoke or refuse* to grant a license to practice chiropractic in this state, or may cause a *licensee's* name to be removed from the records in the office of the *clerk and recorder* in this state on the following grounds: The employment of fraud or deception in applying for a license or in passing an examination *under this act*; practice of chiropractic under a false or assumed name or the impersonation of another practitioner of like or different name; conviction of a crime involving moral turpitude; or habitual intemperance in the use of *alcohol, narcotics, or stimulants* to such an extent as to incapacitate him for the performance of *his* professional duties. A person who is a *licensee*, or an applicant for a license to practice chiropractic, against whom grounds for revoking or refusing a license is presented to the board with a view of having the board revoke or refuse to grant a license, shall have *notice and a hearing before the board* in respecting the guilt or innocence of the person.

(2) The board may within two (2) years of the refusal, revocation, or cancellation of registration under this section, by a majority vote, *authorize the department to issue* a new license or grant a license to the person affected, restoring him to or conferring on him the rights and privileges of the practice of chiropractic. A person to whom *these* rights and privileges have been restored shall pay to the *department* the sum of fifty dollars (\$50) on issuance of a new license."

Section 52. Section 66-511, R.C.M. 1947, is amended to read as follows:

"66-511. **Recordation of license — failure or refusal to record.** (1) A person who *receives* a license from the *department* shall have it recorded in the office of the *clerk and recorder* of the county of which he resides, and shall have it recorded in the counties to which he subsequently *moves* for the purpose of practicing chiropractic.

(2) The failure or refusal on the part of the holder of a license to have it recorded before he *practices* chiropractic in this state, after having been notified by the *department* to do so, is sufficient grounds to revoke or cancel a license and render it void. The *clerk and recorder* shall keep for public inspection, in a book provided for that purpose, a complete list and description of the licenses recorded by him. When a *license* is presented to him for record, he shall stamp on its face his signed memorandum of the date when the license was presented for record."

Section 53. Section 66-512, R.C.M. 1947, is amended to read as follows:

"66-512. **Renewal of license.** A license *expires* on September 1 of each year, and shall be renewed by the *department*, on payment of a renewal fee of not less than five dollars (\$5) nor more than twenty-five dollars (\$25), as set by the board, and the presentation of evidence satisfactory to the board that the licensee, in the year preceding the application for renewal, attended an educational program for chiropractors conducted by a school of chiropractic licensed to operate in the state of its location, or an educational program conducted by the state association of licensed chiropractors of a state, or an educational program approved by the board. *However*, the board may *authorize the department to issue* renewals, but not consecutive renewals, on a showing satisfactory to the board that attendance at the educational programs was unavoidably prevented; and new licensees during the six (6) months preceding September 1, by examination, shall be granted renewal licenses without attending the educational programs. *Failure to renew a license does not prevent a licensee from subsequently applying for and receiving a license, as if there were no lapse of time between the expiration of the old license, and the granting of a renewal license. This section does not prevent a renewal of the license if in the preceding year for any reason, at least one of the educational programs is not conducted in this state.*"

Section 54. Section 66-513, R.C.M. 1947, is amended to read as follows:

"66-513. **Disposition of fees — receipts and disbursements — reports — per diem and mileage.** (1) *Fees collected by the department under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6).*

(2) The *department* shall keep an accurate account of funds received and vouchers issued by the *department*.

(3) The members of the board shall receive twenty-five dollars (\$25) for each day during which they are actually engaged in the discharge of their duties, *plus mileage as provided in section 59-801, and reimbursement for actual and necessary expenses incurred.*"

Section 55. Section 66-601, R.C.M. 1947, is amended to read as follows:

"66-601. **Definitions.** *Unless the context requires otherwise, in this act:* (1) "*Chiropody*" or "*podiatry*" means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of ailments of the human foot.

(2) "*Podiatrist*" means one practicing podiatry.

(3) "Board" means the board of podiatry examiners, provided for in section 82A-1602.6.

(4) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 56. Section 66-602, R.C.M. 1947, is amended to read as follows:

"66-602. **License — amputations not allowed.** It is unlawful for a person to profess to be a *podiatrist*, to practice or assume the duties incident to *podiatry*, or to advertise in any form or hold himself out to the public as a chiropodist or podiatrist, or in a sign or advertisement to use the word chiropodist or podiatrist, foot correctionist, or any other term, terms, or letters indicating to the public that *he* is holding himself out as a *podiatrist* or foot correctionist in any manner, without first obtaining from the board a license authorizing the practice of *podiatry* in this state, except *under this act*. A *podiatrist* may not amputate the human foot or toe, or administer an anesthetic other than local."

Section 57. Section 66-603, R.C.M. 1947, is amended to read as follows:

"66-603. **Examinations schools — fees — nonresident practitioners.** Examinations shall be held semiannually at places and time the board directs. Persons who wish to begin the practice of podiatry in this state, shall make application on a form authorized by the state board of medical examiners and furnished by the department, for a license to practice podiatry. This application shall be granted to applicants after they have furnished satisfactory proof of good moral character, of having attained high school graduation or its equivalent and of having at least two (2) years of instruction in an accredited school of podiatry recognized as being in good standing by the board, but a school of podiatry may not be accredited by the board if it does not require for graduation four (4) years of instruction in the study of podiatry. A license without written examination may be issued to podiatrists of other states maintaining equal statutory requirements for the practice of podiatry and extending the same reciprocal privilege to this state if they have had a valid license for at least two (2) years in that state prior to filing for reciprocal privilege, and by payment of fifty dollars (\$50) to the department."

Section 58. Section 66-604, R.C.M. 1947, is amended to read as follows:

"66-604. **Examination — fees.** A person not exempt from examination under section 66-603 and desiring a license to practice *podiatry* shall be examined in the following subjects: *anatomy*, chemistry, dermatology, diagnosis, materia medica, pathology, physiology, therapeutics, clinical and orthopedic *podiatry*, histology, bacteriology, pharmacy, neurology, surgery (minor), *podiatry*, foot orthopedica, shoe therapy, physiotherapy, roentgenology, hygiene and sanitation, ethics, and culture, limited in their scope to the treatment of the human foot, and, if qualified, shall receive a license. The minimum requirements for a license are a general average of seventy-five percent (75%) in all the subjects involved, and not less than fifty percent (50%) in any one subject. An examination and license fee

of thirty-five dollars (\$35) shall be paid to the department. An applicant failing in the examination and being refused a license is entitled within six (6) months of the refusal to a re-examination, but one re-examination exhausts his privilege under the original examination."

Section 59. Section 66-605, R.C.M. 1947, is amended to read as follows:

"66-605. **Designation of licensees — renewals — reissuance of license — display of license required — recording necessary.** A license issued *under this act* shall be designated as a "registered *podiatrist's* license" and may not contain any abbreviations thereof, nor any other designation or title except that a statement of limitation shall be contained in the license referring to the licensee as a "registered *podiatrist* — practice limited to the foot," so as not to mislead the public with respect to their right to treat other portions of the body. Licenses shall be recorded by the department the same as other medical licenses. The person receiving the license shall have it recorded in the office of the county clerk in the county in which he resides, and the record shall be endorsed on it. If the person licensed moves to another county to practice, he shall record the license in the same manner in the county into which he moves, and the county clerk is entitled to charge and receive the usual fee for making this record. A renewal license fee of three dollars (\$3) shall be paid annually on July 1 of each year, and if not paid within three (3) months, the license shall be revoked and may be reissued only on original application and payment of a fee of thirty-five dollars (\$35). Licenses shall be conspicuously displayed by *podiatrists* at their offices or other places of practice."

Section 60. Section 66-606, R.C.M. 1947, is amended to read as follows:

"66-606. **Refusal or revocation of license.** The board may, after notice and opportunity for a hearing, refuse to grant, renew, or it may revoke a license under this act to a person, otherwise qualified, who obtained the license by fraudulent representation, for incompetency in practice, for use of untruthful or improbable statements to patients or in his advertisements, for habitual intoxication, for unprofessional and immoral conduct, or for selling or giving away alcohol or drugs for an illegal purpose, but the board may authorize the department to reissue a license after six (6) months, if in its judgment the act, acts, or conditions of disqualification have been remedied."

Section 61. Section 66-607, R.C.M. 1947, is amended to read as follows:

"66-607. **Deposit of moneys collected.** Fees and licenses shall be collected by the department and deposited in the earmarked revenue fund for the use of the state board of medical examiners, subject to section 82A-1603(6)."

Section 62. Section 66-608, R.C.M. 1947, is amended to read as follows:

"66-608. **Compensation of board — expenses.** Each member of the board, except the physician members, who are otherwise paid for the per-

formance of their duties as medical examiners, shall receive for his services the sum of five dollars (\$5) per diem and necessary traveling and incidental expenses. *Other* contingent expenses, necessarily incurred, shall be paid by the state *department* in the same manner as other expenses of the state board of medical examiners."

Section 63. Section 66-801, R.C.M. 1947, is amended to read as follows:

"66-801. **License required to practice or teach cosmetology or operate a beauty shop, cosmetological establishment or school — registration of schools of cosmetology.** No person *may* practice or teach cosmetology without a license and no place *may* be used or maintained for the teaching of cosmetology for compensation, except under a certificate of registration, and no person *may* operate, manage, or conduct a beauty shop or school and teach the art or practice without a manager-operator license. No manager-operator license *may* be issued unless the applicant *has* been actively engaged in or teaching the practice of cosmetology in this state for a period of one (1) year preceding the application in addition to possessing the other requirements for a practitioner or teacher of cosmetology. A person, firm, copartnership, or corporation desiring to operate a cosmetological establishment shall make an application to the *department of professional and occupational licensing* for a certificate of registration and license. The application shall be accompanied by the annual registration fee."

Section 64. Section 66-802, R.C.M. 1947, is amended to read as follows:

"66-802. **Definitions.** *Unless the context requires otherwise, in this act:* (1) "Practice and teaching of cosmetology" includes work generally and usually included in the term "hairstressing" and "beauty culture" and performed in so-called hairstressing and beauty shops, or by itinerant cosmetologists, which work is done for the embellishment, cleanliness, and beautification of the hair, scalp, face, arms, or hands. *However, "itinerant cosmetologist" does not include itinerant cosmetologists who perform their services without compensation for demonstration purposes, in a regularly established store or place of business, holding a license from this state as a store or place of business. "Practice and teaching of cosmetology" does not include cosmetological artists who demonstrate cosmetological skills under the auspices of the state association of cosmetology or its affiliated units, whether at meetings or in licensed cosmetological establishments.*

(2) "Cosmetological establishment" means premises, building, or part of a building in which is practiced a branch or combination of branches of cosmetology, or the occupation of a hairstresser and cosmetician or cosmetologist, and which must have a manager-operator in charge.

(3) "Board" means the board of cosmetologists, provided for in section 82A-1602.8.

(4) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 65. Section 66-803, R.C.M. 1947, is amended to read as follows:

"66-803. **Requirements for practicing or teaching cosmetology or operating a school of cosmetology.** (1) Before *one* may practice or teach cosmetology, or a person, firm, copartnership, or corporation may operate a school of cosmetology, *the* person, firm, copartnership, or corporation must obtain a license or certificate of registration from the *department*. To be eligible to take the examination to practice cosmetology the applicant must not be less than eighteen (18) years of age, a graduate of the eighth grade, and of good moral character. *The* applicant must have completed a continuous course of study of at least two thousand (2,000) hours in a registered beauty school, which course of study has been distributed over a period of not less than ten (10) months or more than fourteen (14) months, and *must have* received a diploma from *the* beauty school, or must have completed the course of study in cosmetology prescribed by the board of education. *The* person qualified must file with the *department* a written application to take *the* examination accompanied by a health certificate issued by a registered, licensed physician on a form supplied by the *department*, and shall deposit with the *department* the required examination fee and pass an examination as to his fitness to practice cosmetology.

(2) Before an applicant may take an examination to obtain a license as a teacher of cosmetology, he must:

(a) Be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction.

(b) Meet the following requirements:

(i) He must have an operator's license to practice cosmetology issued by the *department*, been actively engaged as a beauty operator for one (1) continuous year immediately prior to taking the examination, and have received a diploma from a registered school of cosmetology approved by the board certifying satisfactory completion of five hundred (500) hours of student teacher training; or

(ii) He must have been actively engaged as a beauty operator for three (3) continuous years immediately prior to taking the teachers' examination.

(3) The applicant must qualify by filing an application prescribed by the board and by taking and passing the examination prescribed by the board and given by the *department*, subject to section 82A-1603. The license must be renewed annually under section 66-816.

(4) Anyone failing twice to pass an examination may not apply to retake the examination:

(a) Sooner than six (6) months after the date of the second failure; or

(b) Until he has taken two hundred (200) hours additional teacher training at a registered school of cosmetology approved by the board.

(5) *The* board may authorize the *department* to grant to graduates of registered schools of this state on the payment of the fee prescribed by law, a temporary license authorizing *the* graduates to practice as an oper-

ator under the supervision of a licensed cosmetologist, in the practice of hairdressing and beauty culture, for a period of not to exceed ninety (90) days, or until the next examination is held by the *department*, and the results are announced. No temporary license *may* be issued except on the presentation by the applicant of a certificate of graduation from a registered school of *this state*. *The temporary licenses are not renewable.*

(6) No person, firm, copartnership, or corporation *may* operate a school for the purpose of teaching cosmetology for compensation unless a certificate of registration has been first obtained from the *department*. Application for the certificate shall be filed with the *department* on a form *prescribed* by the board.

(7) No teacher or student teacher *may* be permitted to practice cosmetology on the public in a school. A school that enrolls student teachers for a course of student teacher training *may* not have at any one time more than one (1) student teacher for each full-time licensed teacher actively engaged at the school. The student teachers may not substitute for full-time teachers.

(8) No school for teaching cosmetology *may* be granted a certificate of registration unless it complies, or can comply, with the following requirements:

(a) Have in its employ a licensed teacher who *is*, at all times, in the immediate supervision of the work of the school, or other teachers the board *determines* are necessary for the proper conduct of the school. *There may* not be more than twenty-five (25) students to each teacher.

(b) It shall possess apparatus and equipment the board *determines* is necessary for the ready and full teaching of all subjects or practices of cosmetology.

(c) It shall maintain a school term of not less than two thousand (2,000) hours, and shall prescribe a course of practical training and technical instruction equal to the requirements for board examinations, which course of training and technical instruction shall be prescribed by the board.

(d) It shall keep a daily record of the attendance of each student, establish grades, and hold examinations before issuing diplomas.

(e) No owner or person in charge of a school of cosmetology *may* permit a person to sleep in or use for residential purposes, or any other purpose which would tend to make the room unsanitary, a room used, wholly or in part for a school of cosmetology.

(f) Licenses or certificates of registration may be refused, revoked, or suspended, as provided in section 66-811.

(g) The board *may make* further rules necessary for the proper conduct of schools of cosmetology.

(h) The board shall require of the person, firm, copartnership, or corporation operating a school to furnish a good and sufficient bond in the amount of five thousand dollars (\$5,000) and in a form and manner prescribed by the board.

(i) No professional beauty shop *may* be operated in connection with a school of cosmetology.

(j) The board *may, by rule*, establish suitable curriculum for teachers' training in registered schools of cosmetology.

(9) If a licensee *contracts* a communicable disease, endangering the public health, the board shall, on proof of *it*, cancel or suspend his license until the licensee can secure a physician's certificate showing that *he* is free from a communicable disease."

Section 66. Section 66-805, R.C.M. 1947, is amended to read as follows:

"66-805. **Meeting — officers to be selected.** The board shall annually, before March 1, elect from *its* number a president, vice-president, and secretary-treasurer."

Section 67. Section 66-806, R.C.M. 1947, is amended to read as follows:

"66-806. **Power of board to adopt rules and to approve price agreements.** (1) The board *may* approve price agreements among licensed practitioners and students in beauty schools, *by which* minimum prices for hairdressing and beauty culture are established by explicit written agreement signed and executed by at least seventy-five percent (75%) of the practitioners in a county *in this state*, and submitted to the board by the signing group over *their* signatures of all thereof. *Beauty* schools shall charge for students' work not less than fifty percent (50%) of the established minimum prices, as determined and approved by seventy-five percent (75%) of the practitioners *in the area*. On receipt of the price agreements, the board shall investigate the reasons *for it* and the justification for the agreement. If the board, in its discretion, concludes that the price agreement is just and under the conditions obtaining for the particular territory involved, will best protect the public health and safety by affording a sufficient minimum price for hairdressing and beauty culture to enable the practitioners to furnish modern and healthful services, and appliances to minimize danger to the public health; the board may approve the agreements for the term proposed or for a shorter term as the board *considers* proper.

(2) The board *may* also consider separately the petition of an incorporated town or city, when accompanied by the signatures of at least two-thirds (⅔) of the licensed practitioners in the town or city and the board may approve, if necessary, according to the purpose of this chapter, changes in existing price agreements or establish new agreements, when approved by seventy-five percent (75%) of the licensed practitioners within the town or city. Other communities and territory adjacent to a town or city and other areas in the county shall abide by the rules and agreements prescribed for that particular county. *For the purpose of this subsection, a city or town includes, in addition to the territory lying within its legal boundaries, the territory adjacent to it and lying within three (3) miles of the legal boundaries, in any direction.*

(3) In determining whether a price agreement is necessary and just,

and will protect the public health and safety, the board shall give consideration to all conditions affecting hairdressing and the beauty culture art, as practiced, in its relation to public health and safety, and also to the necessary costs incurred in the particular territorial area in maintaining shops or parlors in sanitary and attractive condition. The board shall, on its own initiative, *request the department to, and the department shall* investigate conditions existing in the practice of cosmetology throughout the state, and shall establish new or modify existing minimum prices *when it appears that this action is* in the best interests of public health and safety and in keeping with the purposes and objectives of this act. In no event *may* a minimum price agreement or standard be established, approved, modified, or abolished, except after public hearing. *Notice of the hearing and the purpose, time, and place thereof shall be mailed by the department to every licensed practitioner in the area affected, as it appears in the records of the department, and it shall be published at least once in a newspaper of general circulation which the board considers most likely to give notice to the public, the mailing and publication to be done not less than ten (10) days prior to the hearing.*

(4) The price agreement, as proposed or modified by the board, shall be put into effect by order of the board, which shall plainly state the minimum price for all work usually performed in a beauty shop or parlor in the county, city, or town in which the price agreement has been signed, and for which it is effective, and thereafter no person subject to this act *may* advertise or sell service for less than the minimum price in the area for which the price was established. If the board either *on* petition of two-thirds (2/3) of the signatories to the price agreement, or *on* the board's initial motion, finds that the minimum prices fixed by its order are insufficient or improperly adjusted to provide healthful services to the public and keep the shops and parlors in a safe, sanitary, and attractive condition, *it may* modify the minimum prices by prescribing increases, adjustments, or decreases, if necessary, best calculated to realize the objectives.

(5) The board shall prescribe rules for the conduct of its business; the qualification, examination, and registration of applicants to practice or teach cosmetology; applicants for manager-operator licenses; the regulation and instruction of apprentices and students; the conduct of schools of cosmetology for apprentices and students; and generally for the conduct of the persons, firms, or corporations affected by this act.

(6) *The board shall adopt a seal and authenticate its acts."*

Section 68. Section 66-807, R.C.M. 1947, is amended to read as follows:

"66-807. **Registration — licenses.** If the board finds that an applicant for examination, or for certificate of registration, has complied with the requirements of this act and has paid the required fee, the board shall admit the applicant to examination and shall *authorize the department to* issue a license or certificate of registration to those who have successfully passed the examination or are entitled to the certificate of registration *under this act."*

Section 69. Section 66-808, R.C.M. 1947, is amended to read as follows:

"66-808. **Examinations.** (1) Examinations for operator's license shall be held at least two (2) times a year and not more than five (5) times a year and for teacher's license once each year, at a place and time specified by the board. The examinations shall be conducted by the department, subject to section 82A-1603. The examinations *may* not be confined to a specific method or system.

(2) *Physically* handicapped persons trained for cosmetology by the department of social and rehabilitation services shall, for a period of one (1) year immediately following their graduation, be exempt from the examination and the fees described in section 66-815. On certification from the department of social and rehabilitation services that a department of social and rehabilitation services beneficiary has successfully completed the required apprenticeship or training in a shop or beauty school, the department shall issue the person the necessary certificate or license to practice the profession in this state."

Section 70. Section 66-809, R.C.M. 1947, is amended to read as follows:

"66-809. **Compensation of members of board — deposit of receipts in state treasury.** Each member of the board shall receive, as compensation for his services, the sum of twenty dollars (\$20) for each day's actual attendance at board meetings, not to exceed three (3) consecutive days, and each member shall be reimbursed for his expenses necessarily incurred in the performance of his duties. All fees collected by the department under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 71. Section 66-811, R.C.M. 1947, is amended to read as follows:

"66-811. **Powers and duties of the board to refuse, revoke, or suspend licenses.** The board *may* refuse to issue, refuse to renew, or may revoke, or suspend a license in any one of the following cases: (1) Failure of a person, firm, copartnership, or corporation operating a cosmetological establishment or school of cosmetology to comply with this act; (2) failure to comply with the sanitary rules, adopted by the board and approved by the department of health and environmental sciences, for the regulation of cosmetological establishments or schools of cosmetology; (3) gross malpractice; (4) continued practice by a person knowingly having an infectious or contagious disease; (5) habitual drunkenness, or habitual addiction to the use of morphine or any habit-forming drugs; (6) permitting a certificate of registration or license to be used where the holder is not personally, actively, and continuously engaged in business; or (7) failure to display the license. *However, the board may not* refuse to authorize the department to issue or renew a license, or revoke or suspend a license already issued, until after notice and opportunity for a hearing."

Section 72. Section 66-812, R.C.M. 1947, is amended to read as follows:

"66-812. **Sanitary rules.** The board, subject to the approval of the department of health and environmental sciences, shall prescribe sanitary rules it considers necessary, with particular reference to the precautions

necessary to be employed to prevent the creating and spread of infectious and contagious diseases."

Section 73. Section 66-813, R.C.M. 1947, is amended to read as follows:

"66-813. **Inspector of beauty parlors.** The *department* shall appoint one (1) or more inspectors who are licensed to practice under this act, each of whom shall devote his time to inspecting beauty parlors and performing other duties as the *department* may direct. The inspectors may enter a beauty parlor or school of cosmetology during business hours for the purpose of inspection, and the refusal of a licensee to permit the inspection during business hours is cause for revocation of the license."

Section 74. Section 66-815, R.C.M. 1947, is amended to read as follows:

"66-815. **Fees.** Fees for licenses and certificates of registration shall be paid to the *department* not to exceed the following respective amounts prescribed by the board. (1) A student enrolling in a registered cosmetology school shall pay a registration fee of three dollars and fifty cents (\$3.50) to the *department*.

(2) An applicant for examination to practice shall pay at the time of the application a fee of twenty dollars (\$20).

(3) An applicant for examination who is a graduate from a cosmetology school of this state may pay a fee of four dollars (\$4) for a temporary license to practice as an operator.

(4) An applicant for examination to teach shall pay at the time of the application a fee of thirty dollars (\$30).

(5) A person practicing cosmetology as an operator shall pay a fee of six dollars (\$6) for the issuance of a license.

(6) An applicant for a manager-operator license shall pay a fee of ten dollars (\$10) for the issuance of a license.

(7) An applicant for an itinerant license as a cosmetologist shall pay a fee of fifty dollars (\$50).

(8) A person, firm, copartnership, or corporation owning, operating, or conducting a cosmetological salon shall pay the sum of ten dollars (\$10) for the issuance of the certificate of registration.

(9) A person teaching or instructing cosmetology shall pay a fee of ten dollars (\$10) for the issuance of a license.

(10) A person, firm, copartnership, or corporation owning, operating, or conducting a school of cosmetology shall pay the sum of fifty dollars (\$50) for a certificate of registration.

(11) A person, firm, copartnership, or corporation owning, operating, or conducting an advanced school of cosmetology shall pay the sum of fifty dollars (\$50) for a certificate of registration.

(12) A person, firm, copartnership, or corporation owning, operating, or

conducting a teacher-training unit in a school of cosmetology shall pay the sum of fifty dollars (\$50) for a certificate of registration.

(13) Duplicate licenses or certificates of registration shall be issued on payment of two dollars (\$2) and proof of necessity. The license and registration fees shall be paid annually in advance to the *department*. No other or additional license or registration fee may be imposed by a municipal corporation or other political subdivision of this state for the practice or teaching of cosmetology."

Section 75. Section 66-816, R.C.M. 1947, is amended to read as follows:

"66-816. **Duration and renewal of licenses and certificates — delinquent renewal fee.** (1) Licenses and certificates shall be issued for no longer than one (1) year. Licenses and certificates expire on December 31 unless renewed for the next year. Licenses and certificates may be renewed by application made prior to December 31 of each year, and the payment of a required renewal fee. Expired licenses and certificates may be renewed under rules made by the board.

(2) In addition to the foregoing requirements for renewal, persons applying for the renewal of teachers' licenses must have fulfilled the following additional requirements:

(a) During each year an active teacher, either full time or part time, must have successfully completed thirty (30) hours professional teacher training at a school approved by the board as a prerequisite to the renewal of the teacher's license.

(b) Persons holding a teacher's license, but not actively engaged either full time or part time in teaching cosmetology during the preceding year, may renew the license by paying the required fee.

(c) Persons holding a teacher's license but not actively engaged in teaching cosmetology either full time or part time for the preceding year or longer and wishing to resume active teaching of cosmetology must successfully complete thirty (30) hours professional teachers' training at a school approved by the board before resuming active teachers' training. However, the foregoing provisions do not prevent the board, under rules it adopts from permitting a person holding a teacher's license and not actively engaged either full time or part time in teaching cosmetology from teaching as a substitute for an active teacher.

(3) A fee of two dollars and fifty cents (\$2.50) shall be charged in addition to other fees fixed by law for renewal applications of licenses and certificates made after December 31 of each year. The *department* shall notify license holders of the expiration date of license not less than thirty (30) days before the expiration date, and call attention to the penalty imposed for failure to renew license by the date of expiration."

Section 76. Section 66-901, R.C.M. 1947, is renumbered 82A-1602.9, and is amended to read as follows:

"82A-1602.9. **Board of dentists — appointment — qualifications — term.** (1) There is a board of dentists.

(2) The board consists of five (5) members appointed by the governor. The Montana state dental association shall present to the governor, within fifteen (15) days after its regular annual meeting, a list of not less than five (5) candidates from which appointments for vacancies on the board occurring during the ensuing year may be made. At all times at least three (3) members of the board shall be appointed from the list of candidates submitted by the Montana state dental association. Each member shall be licensed to practice dentistry in this state and shall have actively practiced dentistry in this state for at least five (5) continuous years immediately before his appointment. Each member shall be a citizen of the United States, and a resident of this state.

(3) Each member shall serve for a term of five (5) years. The governor may remove a member only for neglect or cause."

Section 77. There is a new section to be numbered 66-901.1, R.C.M. 1947, which reads as follows:

66-901.1. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Board" means the board of dentists, provided for in section 82A-1602.9.

(2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 78. Section 66-904, R.C.M. 1947, is amended to read as follows:

"66-904. **Meetings — notice — quorum — funds — duties — report.** (1) The board shall meet at least once each year in this state at the call of the president and secretary-treasurer. Five (5) days' notice must be given by the department to board members of the time and place of the meeting of the board. Three (3) members of the board constitute a quorum for the transaction of business. Its proceedings are open to public inspection in cases of public interest. Money collected by the department under this chapter shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6).

(2) The department shall keep a complete record of meetings and proceedings of the board, and shall keep a complete account of moneys received and disbursements made by the department."

Section 79. Section 66-905, R.C.M. 1947, is amended to read as follows:

"66-905. **Dentistry examinations — application — contents — fees — undergraduate examination — regulations for examinations — notice — scope of examination — dentist certificates — fee — form — retention and inspection of examination papers.** (1) A person desiring to practice dentistry in this state shall file in his full name, an application for examination with the department at least twenty (20) days before the date set by the board for the commencement of the examination. At the time of making the application the applicant shall (a) pay to the department a fee of fifty dollars (\$50), furnish the department with at

least three (3) affidavits of good moral character *satisfactory to the board*, present to the department his diploma or satisfactory evidence of having graduated from a recognized dental school or college, which has been approved by the board, and furnish the department a recent photograph of the applicant.

(2) The board may, in its discretion, permit a dental student who has successfully completed his junior year in a recognized dental school, and who files proof satisfactory to the board that he has the preliminary education described in this section, to take a written examination in the subjects he has completed, and satisfactory grades secured shall be credited on the final examination of the student. The board shall require a fee of fifty dollars (\$50) for this examination, which shall apply on the final examination taken by the applicant.

(3) The board shall make rules governing examinations for a license to practice dentistry in this state. The examinations are open to an applicant meeting the requirements of this act. The board shall also provide, by rule, reasonable notice of the time and place where examinations are held. An examination shall be held at least once a year.

(4) The examination shall be practical in character and sufficiently thorough to test the fitness of the applicant to practice dentistry. It shall include, written in the English language, questions on anatomy, histology, physiology, chemistry, pharmacology and therapeutics, metallurgy, pathology, bacteriology, anesthesia, operative and surgical dentistry, prosthetic dentistry, prophylaxis, orthodontics and endodontics, and any additional subjects pertaining to dental service. The written examination may be supplemented by oral examinations. Demonstrations of the applicant's skill in operative and prosthetic dentistry is also required. The examination shall be conducted under oath or affirmation by the department, subject to section 82A-1603, and any member of the board may administer the oath or affirmation. The board may recognize a certificate granted by the national board of dental examiners instead of, or subject to the examinations the board requires.

(5) Applicants successfully passing the examination shall be registered as licensed dentists in the department register and, on payment of an additional fifteen dollars (\$15) shall receive a certificate signed by the members of the board, in a form prescribed by the board.

(6) Examination papers of an applicant shall be retained two (2) years by the department and may then be destroyed, and while so retained are open to inspection only by board members, the applicant, some person appointed by the applicant to examine them, or by a court of competent jurisdiction in a proceeding where the question of the contents of the papers is properly involved.

(7) An applicant failing to pass his first examination, if otherwise qualified, may take subsequent examinations on payment of the fee of twenty-five dollars (\$25) for each examination."

Section 80. Section 66-906, R.C.M. 1947, is amended to read as follows:

"66-906. **Certificate to be registered in counties where practicing — replacing lost certificates — admission of dentists from other states — reciprocity — annual license fee — inactive fee — due date of annual fee — revocation of license for failure to pay.** (1) The certificate under this act entitles the holder to practice dentistry in any county in this state, if the certificate is first filed for registration and registered in the office of the county recorder of the county in which the holder desires to practice. This act does not permit a holder of a certificate to practice in a county in this state unless the certificate has been first registered in the office of the recorder of the county. A holder of a certificate may practice in more than one (1) or in any number of counties in this state on having the certificate registered in each of the counties in which the holder desires to practice. The department shall, on proof satisfactory to the board of the loss of a certificate issued under this act, issue a duplicate certificate, and a fee of ten dollars (\$10) shall be charged for issuing the certificate.

(2) A dentist who has been lawfully licensed to practice in another state or territory which has and maintains a standard for the practice of dentistry or dental surgery which in the opinion of the board is equal to that at the time maintained in this state; who is a graduate of an accredited four (4) year high school or has actual scholastic credits equivalent to a four (4) year high school course; who is a graduate of a recognized dental school or college; who has been lawfully and continuously engaged in the practice of dentistry for five (5) years or more immediately before filing his application to practice in this state; and who deposits in person with the department an attested certificate from the examining board of the state or territory in which he is registered or licensed, certifying to the fact of his registration and license and of his being a person of good moral character and of professional attainments, may, on the payment of a fee of fifty dollars (\$50) and after satisfactory practical examination demonstrating his proficiency, be granted a license to practice dentistry in this state, without being required to take an examination in theory. However, no license may be issued without an examination in theory to an applicant, unless the state or territory from which the certificate has been granted to the applicant extends a like privilege to engage in the practice of dentistry to dentists licensed by this state, who move to the other state. The board may enter into reciprocal relations with similar boards of other states whose laws are practically identical with this act.

(3) A licensed dentist practicing within this state shall annually pay before March 1, to the department, as a license fee for the year, the sum of ten dollars (\$10). The board may increase or decrease the annual license fee to maintain in the earmarked fund, at all times, an amount to be known as the emergency fund to be used for the purpose of administering, policing, and enforcing this act. The emergency fund shall be maintained at an approximate level of two thousand five hundred dollars (\$2,500). Notice of the change in the amount of license fees shall be given to each dentist registered in this state by the department.

(4) If a registered dentist absents himself from the state for a period of one (1) or more years, or does not engage in active practice within this state, he may continue his license in good standing by the payment of

ten dollars (\$10) each year, or at the discretion of the board, he may be reinstated on the payment of a fee of ten dollars (\$10) for each year's absence. The annual payments shall be made prior to March 1 of each year, and a receipt or certificate shall be issued by the department.

(5) In case of default in payment of the annual license fee by a dentist, his license shall be revoked by the board on thirty (30) days' notice given to the delinquent of the time and place of considering the revocation. A registered letter addressed to the last known address of the party failing to comply with this requirement, as the address appears on the records of the department constitutes sufficient notice of revocation of license, but no license may be revoked for nonpayment if the dentist notified pays the license fee plus a late payment penalty of three dollars (\$3) before or at the time fixed for consideration of revocation. The department may maintain in the name of this state a suit to collect license fees and penalties applicable and to recover from the delinquent dentist the cost of the action, including reasonable attorneys' fees.

(6) No license fee or tax may be imposed on dentists by a municipality or any other subdivision of the state."

Section 81. Section 66-908, R.C.M. 1947, is amended to read as follows:

"66-908. **Failure to register certificate as prima facie proof of lack of authority to practice dentistry.** In a prosecution for a misdemeanor under this act the certificate of the county recorder of the county in which the misdemeanor is alleged to have been committed, to the effect that there has been no certificate of the department, filed and registered in the county recorder's office issued under this act to the person accused of the misdemeanor, is prima facie proof that the person is not entitled to practice dentistry in the county."

Section 82. Section 66-909, R.C.M. 1947, is amended to read as follows:

"66-909. **Compensation and expenses allowed board members — limitation on duration of examination meetings — disbursement of funds.** (1) Out of the funds derived from fees and dues collected under this act each member of the board shall be reimbursed as follows:

(a) Fifteen dollars (\$15) per day for each day traveling to and from a meeting and while in actual attendance at a meeting of the board and for each day actually engaged in the duties of his office.

(b) Expenses and travel authorized under sections 59-538 and 59-801.

(c) For first class railroad and Pullman fares actually incurred to and from his place of residence to the place of a meeting.

(2) Meetings held for the purpose of examining candidates for a license to practice dentistry this state may not exceed six (6) days.

(3) Money collected in excess of expenses and salaries provided for shall be held by the department as a special fund for meeting the expenses of the board, the proper administration of this act and for educational pur-

poses *considered* wise by the board. The *department*, on the written request of the board, shall set aside in a separate account in the earmarked revenue fund, the emergency moneys provided under section 66-906. *This account may be expended only when the board determines that an emergency exists requiring an expenditure therefrom.*"

Section 83. Section 66-910, R.C.M. 1947, is amended to read as follows:

"66-910. **Practice of dentistry defined — persons conducting business through licensed dentist — exceptions.** (1) A person is practicing dentistry *under this act* if he performs, attempts, advertises to perform, causes to be performed by the patient or any other person, or instructs in the performance of dental operations, oral surgery, or dental service of any kind gratuitously or for a salary, fee, money, or other remuneration paid, or to be paid, directly or indirectly, to himself, any other person, or agency; is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed; directly or indirectly, by any means or method, furnishes, supplies, constructs, reproduces, or repairs a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth; places the appliance or structure in the human mouth, or attempts to adjust it; advertises to the public, by any method, to furnish, supply, construct, reproduce, or repair a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth; diagnoses, professes to diagnose, prescribes for, professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structure; extracts or attempts to extract human teeth, or corrects, attempts, or professes to correct malpositions of teeth or of the jaw; gives, or professes to give interpretations or readings of dental roentgenograms; administers an anesthetic of any nature in connection with a dental operation; uses the words "dentist," "dental surgeon," "oral surgeon," the letters "D.D.S.," "D.M.D.," or any other words, letters, title, or descriptive matter which in any way represent him as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structures; states, advertises, or permits to be stated or advertised, by sign, card, circular, handbill, newspaper, radio, or otherwise, that he can perform or will attempt to perform dental operations or render a diagnosis in connection therewith; or engages in any of the practices included in the curricula of recognized dental colleges.

(2) A dental laboratory or dental technician is not practicing dentistry *under this act* when engaged in the construction, making, alteration, or repairing of bridges, crowns, dentures, or other prosthetic appliances, surgical appliances, or orthodontic appliances if the casts, models, or impressions on which the work is constructed have been made by a regularly licensed and practicing dentist, and the crowns, bridges, dentures, prosthetic appliances, surgical appliances, or orthodontic appliances are returned to the dentist on whose order the work was constructed.

(3) A licensed dentist who employs or engages the services of a person, firm, or corporation to construct, reproduce, make, alter, or repair bridges, crowns, dentures, other prosthetic appliances, surgical appliances, or

orthodontic appliances, shall furnish the person, firm, or corporation with a written work authorization on forms prescribed by the board which shall contain: (a) the name and address of the person, firm, or corporation to which the work authorization is directed; (b) the patient's name or identification number, but if only a number is used the patient's name shall be written on the duplicate copy of the work authorization retained by the dentist; (c) the date on which the work authorization was written; (d) a description of the work to be done, including diagrams, if necessary; (e) a specification of the type and quality of the materials to be used; and (f) the signature of the dentist and the number of his license to practice dentistry. The person, firm, or corporation receiving a work authorization from a licensed dentist shall retain the original work authorization and the dentist shall retain the duplicate copy for inspection at a reasonable time by the board for a period of two (2) years from date of issuance.

(4) *This section does not apply* to a legally qualified physician or surgeon or to a dental surgeon of the United States army, navy, public health service, or veterans' bureau, or to a legal practitioner of another state making a clinical demonstration before a dental society, convention, or association of dentists, or to a licensed dental hygienist performing an act authorized under section 66-921.

(5) No person, firm, or corporation engaged in the business of constructing, altering, or repairing bridges, crowns, dentures, other prosthetic appliances, surgical appliances, or orthodontic appliances may advertise the services, technique, or materials to the general public by means of advertisements in public newspapers, magazines, or by radio, television, display advertisements, or by any other means *except* advertisements in professional or trade papers, trade journals, trade directories, trade periodicals, trade magazines, and listings in business and telephone directories limited to name, address, and telephone number, which may not occupy more than the number of lines necessary to disclose the information; nor may a person, firm, or corporation so engaged in any way directly solicit the patronage of the general public."

Section 84. Section 66-911, R.C.M. 1947, is amended to read as follows:

"66-911. **Duty of county attorney to enforce act — attorney general's duty on appeal — jurisdiction of justice courts — injunction.** The county attorney of the county in which an offense is alleged to have occurred shall attend to the prosecution of complaints made under this act, both on trial in the justice court where the complaint is made, and also on hearing in the district court, either on the complaint, or on information or indictment filed against a person under this act in the district court. *This act does not* prevent the prosecution of a person for violation of this act on the information of the county attorney directly. Justice courts have original concurrent jurisdiction of misdemeanors committed under this act. If a person, firm, or corporation engages in the practice of dentistry without possessing a valid license or violates this chapter, the attorney general, a county attorney, or the board may maintain an action in the name of this state to enjoin the person, firm, or corporation from engaging in the practice of dentistry or otherwise violating this act. The injunction does not relieve criminal prosecution, but the remedy by

injunction is in addition to the liability of the offender to criminal prosecution."

Section 85. Section 66-913, R.C.M. 1947, is amended to read as follows:

"66-913. **Revocation or suspension of license — grounds — conviction of crime — renting or loaning license — unprofessional conduct — proceedings for revocation or suspension.** (1) A dentist may have his license revoked or suspended by the board for any of the following reasons:

(a) Conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had is conclusive evidence.

(b) For renting, loaning, or attempting to rent or loan to a person his license for the practice of dentistry or his diploma of graduation from a dental college, school, or course to be used as a license or diploma of the person.

(c) For permitting a dental hygienist, under his personal supervision to do an act or perform an operation other than those defined and authorized under section 66-921.

(d) For permitting unlicensed auxiliary personnel to perform duties or tasks other than those which may be specifically authorized by the board.

(e) For unprofessional conduct, gross ignorance or inefficiency in his profession, habitual intemperance, or gross immorality.

(2) Unprofessional conduct consists of employing what are known as "cappers" or "steerers" to obtain business; obtaining a fee by fraud or misrepresentation; willfully betraying professional secrets; employing, directly or indirectly, a student or a suspended or unlicensed dentist to perform operations in the practice of dentistry, treat lesions of the human teeth or jaws, or correct malimposed formations; making use of advertising statements of a character tending to deceive or mislead the public; advertising prices; advertising professional superiority, or performance of professional services in a superior manner; advertising by means of a large display, glaring light sign, or other sign or device containing the representation of a tooth, teeth, bridgework, or a portion of the human head; advertising over television or radio; employing or making use of advertising solicitors or publicity press agents; advertising free dental work or free examination; advertising to guarantee dental service or to perform a dental operation painlessly; advertising by sign or printed advertisements under the name of a corporation, company, association, or trade name.

(3) Proceedings under this section may be taken by the board on its initial motion, for matters in its knowledge, or may be taken on the information of another. However, if the informant is a member of the board, the other members of the board constitute the board for the purpose of determining the truth of the charge or accusation. Accusations must be in writing, verified by some party familiar with the facts charged, and

three (3) copies must be filed with the department. On receiving the accusation the board shall, if it considers the accusation sufficient, make an order setting it for hearing, and requiring the accused to appear and answer the charge or accusation at the hearing.

(4) The accused must appear at the time appointed in the order and answer the charges and make his defense unless for sufficient cause, on the accused's application or the board's order, the board assigns another day for that purpose.

(5) If the accused does not appear the board may proceed and determine the accusation in his absence. If the accused confesses the accusation or refuses to answer the charge, or if on hearing the board finds the charge or accusation true, it may make an order either revoking the license of the accused or suspending it for a fixed period. The board and the accused may have the benefit of counsel, and the board shall have the power to administer oaths, take depositions of witnesses in the manner provided by law in civil cases, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing, or proceeding in this state. The subpoena shall be issued over the signature of the secretary of the board and the seal, and in the name of this state.

(6) On revocation or suspension of a license the fact shall be noted on the records of the department and the license shall be marked canceled on the date of its revocation, or suspended, as the case may be. The department shall, on order of suspension or revocation being entered, transmit to the county recorder in which the license of the licensee affected by the judgment is registered and recorded, a copy of the order, certified by the secretary of the board, for record, and it shall be registered in the same manner and in the same book in which the registration of the certificate to practice dentistry is kept."

Section 86. Section 66-919, R.C.M. 1947, is amended to read as follows:

"66-919. **Practicing dentistry without certificate, penalty for—disposition of fines.** A person who, as principal, agent, employer, employee, or assistant, practices dentistry, or who does an act of dentistry, without having first secured a certificate to practice dentistry from the department entitling him to practice in this state, is guilty of a misdemeanor, and on conviction in a district court may be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) or be confined for a period not exceeding six (6) months in the county jail. Fines imposed and collected under this act shall be paid into the treasury of the county in which the suits, actions, or proceedings are commenced. Money paid into the treasury over and above the amount necessary to reimburse the county for expense incurred by the county in a suit, action, or proceeding brought under this chapter, shall be deposited, before January 1 of each year, in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 87. Section 66-920, R.C.M. 1947, is amended to read as follows:

"66-920. **Affiliation with national association authorized — delegate — expenses allowed.** The board may affiliate with the national association as an active member, pay regular annual dues to the association, and send a delegate to the meetings of the association. The delegate shall be reimbursed as follows:

(1) Fifteen dollars (\$15) per day for each day traveling to and from a meeting and while in actual attendance at a meeting;

(2) *Expenses* and travel authorized under sections 59-538 and 59-801; and

(3) *First-class* railroad and Pullman fares actually incurred to and from his place of residence to the place of a meeting."

Section 88. Section 66-921, R.C.M. 1947, is amended to read as follows:

"66-921. **Dental hygiene defined — dental hygienists — qualifications — examination — fee — registration — certificate form — re-examination — powers and limitations — revocation of license.** (1) *The department* may issue to qualified applicants licenses for the practice of dental hygiene to be known as dental hygienists. The practice of dental hygiene is the doing by one person, for a direct or indirect consideration, with respect to the teeth of another person, or an act or service, educational, therapeutic, prophylactic, or preventive in nature, as the board, in writing, *defines and authorizes*. However, this section does not allow the board or a licensed dentist to delegate any of the following duties: (a) *diagnosis*, treatment planning and prescription; (b) *surgical* procedures on hard and soft tissues; (c) restorative, prosthetic, orthodontic, and other procedures which require the knowledge and skill of a dentist; (d) *prescription* for drugs, medications, or work authorizations.

(2) A candidate for examination as a dental hygienist shall file in his full name an application for examination with the *department* at least twenty (20) days before the date set by the board for the commencement of the examination and at the time of making the application shall pay the *department* a fee of twenty dollars (\$20). The applicant shall also furnish satisfactory proof that he is of good moral character and has earned a diploma or certificate from a school of dental hygiene offering a course of study recognized and approved by the board.

(3) The board shall *make* uniform rules governing the matter of examinations for a license to practice dental hygiene in *this* state, which examinations *are* open to an applicant meeting the requirements of this act, and shall also provide in *its rules* for giving reasonable notice of the time and place where examinations *are* held.

(4) The board may recognize a certificate granted by the national board of dental hygiene examiners *instead of an examination* the board *requires*.

(5) An applicant who successfully *passes the examination* prescribed by the board shall, on the payment of a fee of fifteen dollars (\$15), be granted a license as a dental hygienist, and shall be registered in a record kept by the *department*, and shall receive a certificate, signed by the members of the board, in a form *prescribed by the board*.

(6) A licensed dental hygienist may practice in the office of a licensed and actively practicing dentist or in a public or private institution or under a board of health or in a public clinic authorized by the board, but may not practice except under the direct personal supervision of a licensed dentist; however, the dental hygienist may give instruction in dental hygiene without the supervision of a licensed dentist in a public or private institution or under a board of health or in a public clinic authorized by the board.

(7) An applicant failing to pass his first examination may, if otherwise qualified, take subsequent examinations on payment of the fee of twenty dollars (\$20) for each examination."

Section 89. Section 66-922, R.C.M. 1947, is amended to read as follows:

"66-922. **Annual license fee for dental hygienists — revocation of license.** Before March 1 of each year a licensed dental hygienist shall pay to the *department* a license fee of three dollars (\$3), and in default of payment, the board may after hearing and on thirty (30) days' notice revoke the license of the hygienist in default; but the payment of the fee on or before the time of hearing, with an additional sum fixed by the board, not exceeding three dollars (\$3), *excuses* the default. The *department* may collect the fee by suit. The board may likewise revoke or suspend the license of a dental hygienist for violating this act."

Section 90. Section 66-923, R.C.M. 1947, is amended to read as follows:

"66-923. **Admission of dental hygienists from other states — unlawful to practice without license — licenses for practicing hygienists — reciprocity.** (1) A dental hygienist:

(a) Who has been lawfully licensed to practice in another state or territory which has and maintains a standard for the practice of dental hygiene which, in the opinion of the board, is equal to that at the time maintained in this state,

(b) Who has been lawfully and continuously engaged in the practice of dental hygiene for a period of one (1) year or more immediately before filing his application to practice in this state, and

(c) Who *deposits* in person with the *department* an attested certificate from the examining board of the state or territory in which he is registered or licensed, certifying to the fact of his registration and license and of his being a person of good moral character and of professional attainments; may on the payment of a fee of twenty dollars (\$20) and after satisfactory practical examination demonstrating his proficiency, be granted a license to practice dental hygiene in this state without being required to take an examination in theory. *Except* as provided in subsection (2) of this section, no license may be issued without an examination in theory to the applicant, unless the state or territory from which the certificate has been granted *extends* a like privilege to engage in the practice of dental hygiene to dental hygienists licensed by this state, and who have moved to the other state.

(2) A dental hygienist who has been lawfully licensed to practice in another state or territory not having reciprocity with *this* state but which has and maintains a standard for the practice of dental hygiene which, in the opinion of the board, is equal to that at the time maintained in this state, and who *deposits* in person with the *department*, an attested certificate from the examining board of the state or territory in which he is registered or licensed, certifying to the fact of his registration and license and his being a person of good moral character and of professional attainment may, on the payment of a fee of twenty dollars (\$20), be granted a temporary license authorizing *the* person to practice dental hygiene from the time of the granting of *the* license until the time of the next regular examination for dental hygiene set by the board. No additional fee for *the* examination may be charged.

(3) Except as provided in subsections (1) and (2) of this section no person may engage in the practice of dental hygiene or practice as a dental hygienist in this state until *he* has passed an examination approved by the board under rules it *considers* proper and has been issued a license by the *department*.

(4) The board may enter into reciprocity agreements with other states or territories, the standards of which as to the practice of dental hygiene, are, in the opinion of the board, equal to those of this state.

(5) Nothing in this act relating to the practice of dental hygiene applies to *its* practice by a licensed dentist or a licensed physician and surgeon in *this* state."

Section 91. Section 66-1012, R.C.M. 1947, is amended to read as follows:

"66-1012. **Practice of medicine defined — exemptions from licensing requirements.** (1) *Unless the context requires otherwise in this act:*

(a) "Practice of medicine" means the diagnosis, treatment, or correction of, or the attempt to, or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, method, devices, or instrumentalities. *If a person who does not possess a license to practice medicine in this state, under this act, and who is not exempt from the licensing requirements of this act, performs acts constituting the practice of medicine, he is practicing medicine in violation of this act.*

(b) "Board" means the Montana state board of medical examiners, provided for in section 82A-1602.15.

(c) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

(2) *This act does not prohibit or require a license with respect to any of the following acts:*

(a) *The gratuitous rendering of services in cases of emergency or catastrophe;*

(b) *The rendering of services in this state by a physician lawfully prac-*

ticing medicine in another state or territory; *however, if the physician does not limit the services to an occasional case, or if he has any established or regularly used hospital connections in this state, or maintains or is provided with, for his regular use, an office or other place for rendering the services, he must possess a license to practice medicine in this state;*

(c) *The practice of dentistry under the conditions and limitations defined by the laws of this state;*

(d) *The practice of podiatry under the conditions and limitations defined by the laws of this state;*

(e) *The practice of optometry under the conditions and limitations defined by the laws of this state;*

(f) *The practice of osteopathy under the conditions and limitations defined in sections 66-1401.1 to 66-1413, as amended, for those doctors of osteopathy who do not receive a physician's certificate under this act;*

(g) *The practice of chiropractic under the conditions and limitations defined by the laws of this state;*

(h) *The practice of Christian Science, with or without compensation; and ritual circumcisions by rabbis;*

(i) *The performance by commissioned medical officers of the armed forces of the United States or of the United States public health service or of the United States veterans administration of their lawful duties in this state as officers;*

(j) *The rendering of nursing services by registered or other nurses in the lawful discharge of their duties as nurses;*

(k) *The rendering of services by interns or resident physicians in a hospital or clinic in which they are training, subject to the conditions and limitations of this act;*

(l) *The rendering of services by a physical therapist, technician, or other paramedical specialist, under the personal and responsible direction and supervision of a person licensed under the laws of this state to practice medicine, but this exemption does not extend the scope of a paramedical specialist; and*

(m) *The practice by persons licensed under the laws of this state to practice a limited field of the healing arts and not specifically designated, under the conditions and limitations defined by law.*

(3) *Licenses referred to in subsection (2) of this section, who are licensed to practice a limited field of healing arts, shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses, and may not use the title M.D., or any word or abbreviation to indicate, or to induce others to believe that they are engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed."*

Section 92. Section 66-1013, R.C.M. 1947, is renumbered 82A-1602.15, and is amended to read as follows:

"82A-1602.15. **Montana state board of medical examiners — appointment — qualifications — term — removal.** (1) *There is a Montana state board of medical examiners.*

(2) *The board consists of seven (7) members appointed by the governor, with the consent of the senate. Appointments made when the senate is not in session may be confirmed at the next senate session. The members are: six (6) members having the degree of doctor of medicine, and one (1) member having the degree of doctor of osteopathy. The members having the degree of doctor of medicine may not be from the same county. Each member shall be a citizen of the United States. Each member shall have been licensed and shall have practiced medicine in this state for at least five (5) years, and shall have been a resident of this state for at least five (5) years.*

(3) *Each member shall serve for a term of seven (7) years. A term commences on September 1 of each year of appointment. A member may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence, or unprofessional or dishonorable conduct."*

Section 93. Section 66-1015, R.C.M. 1947, is amended to read as follows:

"66-1015. **Organization.** The board shall, at the first meeting each year, elect from among its members a president, vice-president, and secretary. The board shall adopt a seal, in which appears the words "The Board of Medical Examiners of Montana" and the further words "Official Seal" and acts, rules, orders, certificates, and licenses shall be authenticated by the seal."

Section 94. Section 66-1017, R.C.M. 1947, is amended to read as follows:

"66-1017. **Powers and duties of board.** (1) *The board may:*

(a) *Adopt rules necessary or proper to carry out this act. The rules shall be fair, impartial, and nondiscriminatory.*

(b) *Hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board.*

(c) *Aid the county attorneys of this state in the enforcement of this act and the prosecution of persons, firms, associations, or corporations charged with violations of this act.*

(2) *A person hired by the department to assist it and the board in investigations, the authorization of temporary certificates, professional correspondence, and related matters shall be approved by the board."*

Section 95. Section 66-1018, R.C.M. 1947, is amended to read as follows:

"66-1018. **Meetings.** The board shall hold meetings for examinations, and for other business properly before the board at least twice annually at times and places set by the board. The president of the board may call special meetings he considers advisable or necessary. Four (4) members of the board constitute a quorum."

Section 96. Section 66-1019, R.C.M. 1947, is amended to read as follows:

"66-1019. **Records.** The department shall keep a record of the board's proceedings, and also records of applicants for a certificate and a register of licenses. The register is prima facie evidence of the matters contained in it."

Section 97. Section 66-1020, R.C.M. 1947, is amended to read as follows:

"66-1020. **Compensation of members.** Each member of the board shall receive twenty-five dollars (\$25) per diem, and mileage as provided in section 59-801 while in the active and necessary discharge of his duties."

Section 98. Section 66-1021, R.C.M. 1947, is amended to read as follows:

"66-1021. **Kinds of certificates — issuance — reciprocity certificates and certificates by endorsement — renewal.** The department may issue two (2) forms of certificates under the board's seal: the physician's certificate and the temporary certificate. The physician's certificate shall be signed by the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates shall be designated as:

(1) *Physician's certificate, which is subject to annual registration;*

(2) *Temporary certificate, which is subject to specifications and limitations imposed by the board."*

Section 99. Section 66-1025, R.C.M. 1947, is amended to read as follows:

"66-1025. **Qualifications for licensure — physician's certificates, reciprocity and endorsement.** (1) *The board may authorize the department to issue to an applicant a physician's certificate, certificate by reciprocity, or certificate by endorsement only on the basis of:*

(a) *Passing an examination given and graded by the department, subject to section 82A-1603;*

(b) *Certification of record or other certificate of examination issued to or for the applicant by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee, or successors, certifying that the applicant has passed an examination given by this board; or*

(c) *A valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were, in the judgment of the board, essentially equivalent to those of this state for granting a license to practice medicine, if under the scope of the license or certificate the applicant was authorized to practice medicine in the other state, territory, or country.*

(2) No applicant who applies for a license on the basis of an examination and fails the examination may be granted a license based on credentials from another state, territory, or foreign country, or on a certificate issued by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee or successors.

(3) The board may adopt reciprocity or endorsement requirements current with changes in standards in the practice of medicine.

(4) The board may, in the case of an applicant for admission by reciprocity or endorsement, require a written or oral examination of the applicant.

(5) The board may require that graduates of foreign medical schools pass an examination given by the Education Council for Foreign Medical Graduates, or successors.

(6) Holders of the degree of doctor of osteopathy granted in 1955 or before will be certified only on the basis of taking and passing the examination given by the department, subject to section 82A-1603. Holders of the degree of doctor of osteopathy granted after 1955 will be certified in the same manner as provided above for physicians."

Section 100. Section 66-1026, R.C.M. 1947, is amended to read as follows:

"66-1026. **Qualifications for licensure — temporary certificate.** The board may authorize the department to issue to an applicant a temporary certificate to practice medicine on the basis of:

(1) Passing an examination given and graded by the department, subject to section 82A-1603; or

(2) Certification of record or other certificate of examination issued to or for the applicant by the National Board of Medical Examiners or successors, or by the Federation Licensing Examination Committee, or successors, certifying that the applicant has passed an examination given by the board; or

(3) A valid, unsuspended, and unrevoked license or certificate issued to the applicant, on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and

(4) Being a graduate of an approved medical school who has completed one (1) year of internship, or its equivalent, and being of good moral character and good conduct; and

(5) The board may require that graduates of foreign medical schools pass the examination given by the Education Council for Foreign Medical Graduates, or successors."

Section 101. Section 66-1027, R.C.M. 1947, is amended to read as follows:

"66-1027. **Qualifications for licensure — limitations.** (1) No person may be granted a physician's certificate to practice medicine in this state unless he:

(a) Is a citizen of the United States;

(b) Is of good moral character, as determined by the board;

(c) Is a graduate of an approved medical school as defined in section 66-1028;

(d) Has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is at least the equivalent of one (1) year internship; and

(e) Has made a personal appearance before the board. The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board, or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified.

(2) No person may be granted a temporary license to practice medicine in this state unless he:

(a) Is a citizen of the United States, or has filed a properly executed declaration of intention to become a citizen of the United States;

(b) Is of good moral character, as determined by the board;

(c) Is a graduate of an approved medical school as defined in section 66-1028;

(d) Has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is at least the equivalent of one (1) year internship; and

(e) Has made a personal appearance before at least one (1) member of the board.

(3) A temporary license may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary license subject to terms of probation or other conditions or limitations set by the board, or may refuse a temporary license to a person if he has committed unprofessional conduct. The issuance of a temporary certificate imposes no future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary license. The board may, in the case of an applicant for a temporary certificate, require a written, oral, or practical examination of the applicant."

Section 102. Section 66-1028, R.C.M. 1947, is amended to read as follows:

"66-1028. **Approved medical school.** An approved medical school is a school which either is accredited by the American Osteopathic Association or conforms to the minimum education standards established by the Council on Medical Education of the American Medical Association, or successors, for medical schools, or is equivalent in the sound discretion

of the board. *The board may, on investigation of the educational standards and facilities, approve any medical school, including foreign medical schools.*"

Section 103. Section 66-1032, R.C.M. 1947, is amended to read as follows:

"66-1032. **Application for license.** (1) A person desiring a license to practice medicine shall make application to the *department*, verified by oath and in a form prescribed by the board. *The application shall be accompanied by the license fee and documents, affidavits, and certificates necessary to establish that the applicant possesses the qualifications prescribed by this act, apart from an examination required by the board. The burden of proof is on the applicant, but the board may make an independent investigation to determine whether the applicant possesses the qualifications and whether the applicant has committed unprofessional conduct. At the board's request, the applicant shall provide necessary authorizations for the release of records and information pertinent to the board's information.*

(2) An applicant for a license on the basis of an examination shall file his application at least thirty (30) days prior to the announced date of the examination. If *the applicant is not at the time of filing his application a graduate of, but is then in attendance at, an approved medical school, he shall submit to the department, instead of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of the approved medical school that the applicant will receive his diploma at the end of the then current school term. The applicant may not be granted a certificate until he has filed with the department his diploma or other acceptable evidence of graduation from the approved medical school, and has complied with the requirements of subsection (1) of this section, and no license may be issued to him until he has satisfied the board that he has completed at least one (1) year of an approved internship, or its equivalent, and has otherwise met the requirements for the issuance of a license under this act.*"

Section 104. Section 66-1033, R.C.M. 1947, is amended to read as follows:

"66-1033. **Examination.** (1) Examinations for a license to practice medicine shall be held not less than twice each year, at a time and place specified by the board. The examination shall be conducted in the English language, and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers *may not disclose the name of an applicant but shall be identified by a number assigned by the department. The board may require the department to use the examination prepared by the National Board of Medical Examiners, or the examination prepared by the Federation Licensing Examination Committee, or successors.*

(2) The board may, in its discretion, *require the department to give subject to section 82A-1603, an oral or practical examination to test the applicant's qualifications for licensure, and grant appropriate credit for this.*

(3) The board may use other Montana physicians to assist in preparing the examination.

(4) A person *may not* be granted a license to practice medicine if he fails to attain an average grade of at least seventy-five percent (75%). If an applicant fails to meet *the* minimum grade requirements in his first examination, he may, after not less than six (6) months nor more than twelve (12) months, be re-examined without an additional fee. He may take one (1) additional examination, but not less than one (1) year after the date of the last preceding examination and he *is* required to pay a fee of fifty dollars (\$50) for *the* additional examination. *If an applicant is prevented through no fault of his own from taking a scheduled examination he may, within two (2) years, be examined without payment of another fee or submission of a new application.*"

Section 105. Section 66-1034 R.C.M. 1947, is amended to read as follows:

"66-1034. **Issuance of license — prior practice prohibited.** If the board determines that an applicant possesses the qualifications required by this act, the *department* shall issue a license to practice medicine which shall be signed by the president or vice-president, attested by the secretary, and sealed with the seal of the board. *Prior to the issuance of a license, the applicant may not engage in the practice of medicine in this state.*"

Section 106. Section 66-1036, R.C.M. 1947, is amended to read as follows:

"66-1036. **Refusal of license.** If the board *determines* that an applicant for a license to practice medicine does not possess the qualifications or character required by this act or that he has committed unprofessional conduct, it shall refrain from *authorizing the department to issue* a license. *The department shall mail to the applicant, at his last address of record with the department, written notification of the board's decision together with notice of a time and place of a hearing before the board. If the applicant without cause fails to appear at the hearing, or if after hearing, the board determines he is not entitled to a license, the board shall refuse to grant the license.*"

Section 107. Section 66-1037, R.C.M. 1947, is amended to read as follows:

"66-1037. **Unprofessional conduct.** As used in this act "unprofessional conduct" means:

- (1) *Resorting* to fraud, misrepresentation, or deception in applying for or in securing a license or in taking the examination provided for in this act;
- (2) *Performing* abortion contrary to law;
- (3) *Obtaining* a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury, or condition of a person can be cured;
- (4) *Willful* disobedience of the rules of the board;

(5) *Conviction of an offense involving moral turpitude, or the conviction of a felony involving moral turpitude, and the judgment of the conviction, unless pending on appeal, is conclusive evidence of unprofessional conduct;*

(6) *Administering, dispensing, or prescribing a narcotic or hallucinatory drug, as defined by the federal food and drug administration, or successors, otherwise than in the course of legitimate or reputable professional practice;*

(7) *Conviction or violation of a federal or state law regulating the possession, distribution, or use of a narcotic or hallucinatory drug as defined by the federal food and drug administration; and the judgment or conviction, unless pending on appeal, is conclusive evidence of unprofessional conduct;*

(8) *Habitual intemperance or excessive use of narcotic drugs, alcohol, or of any other drug or substance to the extent that the use impairs the user physically or mentally;*

(9) *Conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public;*

(10) *Resorting to fraud, misrepresentation or deception in the examination or treatment of a person, or in billing or reporting to a person, company, institution, or organization;*

(11) *Testifying in court on a contingency basis;*

(12) *Conspiring to misrepresent or willfully misrepresenting, medical conditions improperly to increase or decrease a settlement, award, verdict, or judgment;*

(13) *Aiding or abetting, in the practice of medicine, a person not licensed to practice medicine or a person whose license to practice medicine is suspended;*

(14) *Gross malpractice, or negligent practice;*

(15) *Practicing medicine as the partner, agent, or employee of, or in joint venture with, a person who does not hold a license to practice medicine within this state; however, this does not prohibit the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 15, chapter 21, nor does this apply to a single consultation with or a single treatment by a person or persons licensed to practice medicine and surgery in another state or territory of the United States or foreign country;*

(16) *Violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate this act or the rules authorized by it, or*

(17) *Any other act, whether specifically enumerated or not, which, in fact, constitutes unprofessional conduct."*

Section 108. Section 66-1038, R.C.M. 1947, is amended to read as follows:

"66-1038. **Revocation or suspension of license — probation.** (1) The board may, *when* it has been brought to its attention that there is reason to suspect that a person having a license or certificate to practice medicine in this state:

(a) *Is mentally or physically unable, safely, to engage in the practice of medicine, or has procured his license to practice medicine by fraud or misrepresentation or through mistake, or has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent, or when a condition exists which impairs his intellect or judgment to the extent that it incapacitates him for the safe performance of professional duties;*

(b) *Has been guilty of unprofessional conduct;*

(c) *Has practiced medicine while his license was suspended or revoked;*
or

(d) *His, while under probation, violated its terms; make an investigation, including requiring the person to submit to a physical examination or a mental examination or both by a physician or physicians selected by the board when it appears in the best interests of the public that this evaluation be secured, to determine the probability of the existence of these conditions or the commission of these offenses. The board may examine and scrutinize the hospital records and reports of a licensee as part of the examination and copies of these shall be released to the board on written request. If the board has reasonable cause to believe that this probability exists, the department shall mail to the person, at his last address of record with the department, a specification of the charges against him, together with a written citation of the time and place of the hearing on it, advising him that he may be present in person, and by counsel if he so desires, to offer evidence and be heard in his defense. The time fixed for the hearing shall not be less than thirty (30) days from the date of mailing the notice.*

(2) A person, including a member of the board, may file a sworn complaint with the department against a person having a license to practice medicine in this state, charging him with the commission of any of the offenses set forth in section 66-1037, or subsection one (1) of this section, which complaint shall set forth a specification of the charges. When the complaint is filed, the department shall mail a copy to the person accused, at his last address of record with the department, together with a written citation of the time and place of the hearing on it.

(3) At the hearing the board shall adopt a resolution finding him guilty or not guilty of the matters charged. If the board finds that the conditions referred to in section 66-1037, or subsection (1) of this section do not exist with respect to the person or if he is found not guilty, the board shall dismiss the charges or complaint, but if the board does find that the conditions referred to in section 66-1037 or in subsection (1) of this section do exist and the person is found guilty, the board shall:

(a) *Revoke his license;*

(b) *Suspend his right to practice for a period not exceeding one (1) year;*

(c) *Suspend* its judgment of revocation *on* the terms and conditions to be determined by the board;

(d) *Place* him *on* probation; or

(e) *Take any* other action in relation to disciplining him as the board in its discretion *considers* proper.

(4) The *department* in cases of revocation, suspension, or probation shall enter in its records the facts of *the* action, and of subsequent action of the board with respect *to it*.

(5) *On* the expiration of the term of suspension, the licensee shall be reinstated by the board, *if he furnishes* the board with evidence that he is then of good moral character and conduct and restored to good health and that he has not practiced medicine in this state during the term of suspension. *If the* evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and conduct or if not restored to good health or *if the* evidence shows he has practiced medicine in this state during the term of suspension, the board shall revoke the license at a hearing, *with* notice and the procedure provided *in subsection (1) of this section*. The revocation is final and absolute.

(6) *If a* person holding a license to practice medicine under this act is, by a final order or adjudication of a court of competent jurisdiction, adjudged to be mentally incompetent or insane, or addicted to the use of narcotics, his license may be suspended by the board. *The* suspension *continues* until the licensee is found or adjudged by *the* court to be restored to reason or cured, or until he is discharged as restored to reason or cured and his professional competence has been proven to the satisfaction of the board."

Section 109. Section 66-1041, R.C.M. 1947, is amended to read as follows:

"66-1041. **Violations — penalties.** (1) A person practicing medicine in *this* state without complying with this act, or *an* association or corporation (except a professional service corporation *under Title 15, chapter 21*) practicing medicine *in* this state, or a person, association, or corporation violating this act or *an* officer or director of *an* association or corporation violating *this* act, is guilty of a misdemeanor, and *on* conviction, shall be *fin*ed not less than two hundred fifty dollars (\$250) or more than one thousand dollars (\$1,000) or *imprisoned* in the county jail for not less than ninety (90) days or more than one (1) year, or both. *Each* daily failure to comply with, or each daily violation of this act, *constitutes* a separate offense.

(2) A person presenting, or attempting to file as his own, the diploma, license, certificate, or credentials of another, or who *gives* false or forged evidence to the board, *a member of the board, or the department*, in connection with an application for a license to practice medicine, or who *practices* medicine under a false or assumed name, or who *falsely impersonates* another licensee, is guilty of a felony, and *on* conviction shall be *imprisoned* in the state penitentiary for a term of not less than one (1) year or more than ten (10) years."

Section 110. Section 66-1042, R.C.M. 1947, is amended to read as follows:

"66-1042. **Annual registration fees — limiting authority to impose registration fees.** (1) In addition to the license fees required of applicants, a licensed physician actively practicing medicine *in this* state shall pay each year to the *department*, an annual registration fee, not to exceed the sum of twenty-five dollars (\$25), as prescribed by the board and approved by the *department of administration*. *If a* person licensed to practice medicine absents himself from the state for a period of one (1) or more years, or does not engage in active practice *in this* state, he may continue his license in good standing by the payment of five dollars (\$5) each year, or at the discretion of the board, he may be reinstated *on* the payment of a fee of five dollars (\$5) for each year of absence or inactive practice.

(2) *The* annual payments for registration shall be made prior to April 1, and a receipt acknowledging payment of the annual registration fee shall be issued by the *department*. The *department* shall mail registration notices, at least sixty (60) days before *the* registration is due. In case of default in the payment of the annual registration fee by a person licensed to practice medicine who is actively practicing medicine *in this* state, his underlying certificate to practice medicine may be revoked by the board *on* thirty (30) days' notice given to the delinquent of the time and place of considering *the* revocation. A registered or certified letter addressed to the last known address of the person failing to comply with the requirements of annual registration, as *the* address appears *on* the records of the *department*, *constitutes* sufficient notice of intention to revoke his underlying certificate. *No* certificate *may* be revoked for nonpayment if the person authorized to practice medicine, and notified, *pays* the annual registration fee before or at the time fixed for consideration of revocation together with a delinquency penalty of ten dollars (\$10). *The department* may collect *the* dues by an action at law.

(3) No registration or license fee *may* be imposed *on* a licensee under this act by a municipality or any other subdivision of the state."

Section 111. Section 66-1043, R.C.M. 1947, is amended to read as follows:

"66-1043. **Disposition of money received.** *Money* received *under this* act by the *department* shall be deposited in the earmarked revenue fund for the use of the board, *subject to section 82A-1603(6)*. In the case of a deficiency the reserves in *this* account in the earmarked revenue fund may be used *on* approval by the *department of administration* and the governor."

Section 112. Section 66-1045, R.C.M. 1947, is amended to read as follows:

"66-1045. **Injunctive relief — manner of charging violation of act.** The board, notwithstanding any other provision in this act, may maintain an action to enjoin a person from engaging in the practice of medicine, until a license to practice medicine is procured. A person who has been enjoined *and* who *violates* the injunction is *punishable* for contempt of

court. *The injunction does not relieve the person practicing medicine without a license from a criminal prosecution. The remedy by injunction is in addition to remedies provided for the criminal prosecution of the offender. In charging a person in a complaint for injunction or in an affidavit, information, or indictment with a violation of this law by practicing medicine without a license, it is sufficient to charge that he did, on a certain day and in a certain county, engage in the practice of medicine, not having a license to do so, without averring further or more particular facts concerning the violation.*"

Section 113. Section 66-1048, R.C.M. 1947, is amended to read as follows:

"66-1048. **Notice of change of address or name.** *When a person applies for a license of any type to practice medicine in this state the person shall designate in his application his correct and official address to which the department shall send communications, notices, orders, citations, or other process, if any, affecting him. If the person changes his address, or when the name of a licensee is changed by marriage or otherwise, the person shall within thirty (30) days notify the department in writing of his old and new address or of the former name and new name. This information shall be entered promptly by the department in the official records of the department. A person licensed to practice medicine in this state shall keep the department advised at all times of his correct mailing address and of his correct name.*"

Section 114. Section 66-1222, R.C.M. 1947, is amended to read as follows:

"66-1222. **Definitions — identification of board when administering act for professional nursing and for practical nursing.** *Unless the context requires otherwise, in this act:*

(1) *"Board" means the board of nursing, provided for in section 82A-1602.18 with dual functions in the field of professional nursing and practical nursing. In matters relating to professional nursing the board consists of five (5) members. In matters relating to practical nursing the board consists of eight (8) members. The board of five (5) members may for convenience be referred to as the board followed by the words "professional nursing administration," and the board of eight (8) members may, for convenience, be referred to as the board followed by the words "practical nursing administration."*

(2) *"Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.*

(3) *"Practice of nursing" embraces two (a) classes of nursing service and activity, as follows:*

(a) *"Practice of professional nursing" means the performance for compensation of an act in the observation, care, and counsel of the ill, injured, or infirm, or in the maintenance of health, or prevention of illness of others, or in the supervision and teaching of other personnel, or the administration of medications and treatments prescribed by a person licensed in this state to prescribe medications and treatments; requiring*

substantial specialized judgment and skill and based on knowledge and application of the principles of biological, physical, and social science. The term does not include acts of diagnosis or prescription of therapeutic or corrective measures.

(b) *"Practice of practical nursing" means the performance for compensation in the care of the ill, injured, or infirm, of acts selected by and performed under the direction of a registered professional nurse, or a person licensed in this state to prescribe medications and treatments; and not requiring the substantial specialized skill, judgment, and knowledge required in professional nursing."*

Section 115. Section 66-1223, R.C.M. 1947, is amended to read as follows:

"66-1223. **Seal—board records public—legal counsel.** (1) *The board shall have a seal which shall be used to authenticate its acts under each administration. The seal shall have inscribed the words "Board of Nursing" — "Official Seal" and a device or legend designated by the board.*

(2) *The records and files of the board kept by the department are at all times open to public inspection.*

(3) *The attorney general is the attorney and legal counsel for the board; but the department may, with the approval of the attorney general, appoint additional legal counsel to assist the board and department in the administration and enforcement of this act."*

Section 116. Section 66-1225, R.C.M. 1947, is amended to read as follows:

"66-1225. **Organization — duties and powers — separation of records responsive to functions of board — dual administrations to be exclusive of each other.** (1) *The board — practical nursing administration, shall meet annually in the month of July and shall elect from among the eight (8) members a president and a secretary, each of whom is a professional nurse. The board — practical nursing administration, shall hold other meetings when necessary to transact its business. The board — professional nursing administration, shall meet annually in July and shall hold other meetings when necessary to transact its business. A majority of the board, as separately constituted for each administration, including in the majority at least one officer of the board, constitutes a quorum at any meeting; however, when sitting as the practical nursing administration, a quorum consists of a minimum of two (2) practical nurse members and three (3) professional nurse members, including one board officer. The department shall keep separate and complete minutes and records of the respective administration meetings and rules and orders promulgated by each administration of the board, and each administration shall exercise its functions, powers, and duties exclusive of the other, except for the identity and membership provided in this act.*

(2) *The board under each administration may make rules necessary to enable the respective administrations to administer this act. The board under each administration shall prescribe curricula and standards for*

schools and courses preparing persons for registration and licensure under this act. It shall provide for surveys of schools and courses at times it *considers* necessary. It shall approve schools and courses *that* meet the requirements of this act and of the board. It shall evaluate and approve courses for affiliation of student nurses. *The department* shall, *subject to section 82A-1603*, examine, *issue to*, and renew licenses of qualified applicants. *The board* shall conduct hearings *on* charges calling for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list. It shall cause the prosecution of persons violating this act and *may* incur necessary expenses *for this*.

(3) The board under each administration *may* adopt and *the department shall* publish forms for use by applicants and others, including license, certificate, and identity forms, and other appropriate forms and publications convenient for the proper administration of this act, and *the board may* fix reasonable fees for incidental services, all within the subject matter delegated to each administration by this act. *Forms* shall make clear reference to the administration for which the form is intended.

(4) *Unless the context requires otherwise*, the powers and duties enumerated in this act shall be exercised and performed by the board — professional nursing administration, in all matters relating to professional nurses or professional nursing education, and shall be exercised and performed by the board inclusive of the practical nursing administration in all matters relating to practical nurses and practical nursing education. The officers of the board shall also be the officers of the board inclusive of the practical nursing administration."

Section 117. Section 66-1226, R.C.M. 1947, is amended to read as follows:

"66-1226. **Reimbursement for expenses — compensation.** Each member of the board shall be paid *mileage as provided in section 59-801* and actual and necessary expenses, and in addition, fifteen dollars (\$15) per day for each day actually engaged in the discharge of duties under this act, including the time spent in actual attendance at a meeting of the board and in direct travel to and from meetings, and a reasonable number of days for the preparation and administration of examinations."

Section 118. Section 66-1227, R.C.M. 1947, is amended to read as follows:

"66-1227. **Qualifications of applicants for license to practice professional nursing.** An applicant for a license to practice as a registered professional nurse shall submit to the *department* written evidence, verified by oath, that *the applicant*:

(1) Has successfully completed at least an approved four (4) year high school course of study or the equivalent as determined by the *office of the superintendent* of public instruction;

(2) Has completed the basic professional curriculum in an approved school of nursing and holds a diploma therefrom; *and*

(3) *Meets* other qualification requirements the board, *acting under the professional nursing administration, prescribes*."

Section 119. Section 66-1228, R.C.M. 1947, is amended to read as follows:

"66-1228. **License — by examination — by endorsement without examination — license fees.** (1) An applicant for a license to practice professional nursing *is* required to pass a written examination in subjects the board, acting under the professional nursing administration, *determines*. A written examination may be supplemented by an oral or practical examination. *On* successfully passing *the* examination, the *department* shall issue to the applicant a license to practice nursing as a registered professional nurse. The applicant shall pay a fee of twenty-five dollars (\$25) at the time the application is submitted, which shall be returned to the applicant if the application is withdrawn not later than five (5) days prior to the date of examination, or if the examination is not taken, subject to deduction by the *department* of one dollar (\$1) per subject of the examination which shall be retained by the *department*.

(2) The board — professional nursing administration, may issue a license to practice nursing as a registered professional nurse without examination, to an applicant who has been licensed or registered as a professional nurse under the laws of another state, territory, or country, if in the opinion of the board the applicant meets the qualifications required of registered nurses in this state at the time the applicant graduated from a school of nursing. The applicant shall pay a fee of twenty-five dollars (\$25) at the time the application is submitted, which shall be returned to the applicant if the application is withdrawn not later than five (5) days prior to final submission of the application to the board, subject to deduction of five dollars (\$5), to be retained by the *department*.

(3) An applicant may, pending application for a professional nursing license *under subsections (2) of this section*, practice professional nursing as an employee of a physician, or in a hospital or public health agency for a period not longer than three (3) months from the date the *department* acknowledges receiving from *the* nurse a completed statement, on a form provided by the *department*, of intention to practice. *The* statement shall consist of an affidavit by *the* nurse; and an affidavit by the physician employer or by the administrator, assistant administrator, or director of nursing of a hospital or public health agency where *the* nurse intends to practice professional nursing. The affidavit of *the* nurse and the affidavit of *the* physician employer or administrator, assistant administrator or director of nursing of *the* hospital or public health agency shall contain the information deemed by the board necessary for *the* statement. This subsection does not permit the nurse to practice for more than a three (3) month period, or in any event, after being notified by the board, *through the department*, that *the* application for a license has been denied, or, in all cases, after being notified by the board, *through the department*, to cease and desist *this* practice. Notice shall be given by registered or certified mail to the address of *the* applicant as it appears in the statement of *the* applicant."

Section 120. Section 66-1231, R.C.M. 1947, is amended to read as follows:

"66-1231. **Qualifications of applicants for licensed practical**

nurse. An applicant for a license to practice as a licensed practical nurse shall submit to the *department* written evidence, verified by oath, that the applicant:

- (1) Has successfully completed at least an approved four (4) year high school course of study, or the equivalent as determined by the *office of the superintendent* of public instruction;
- (2) Has successfully completed the prescribed curriculum in an approved school of practical nursing and holds a diploma or certificate therefrom; and
- (3) *Meets* other qualification requirements the board, acting under the practical nursing administration, *prescribes*."

Section 121. Section 66-1232, R.C.M. 1947, is amended to read as follows:

"66-1232. **License of practical nurse by examination — by endorsement without examination.** (1) An applicant for a license to practice as a practical nurse is required to pass a written examination in subjects as the board, acting under the practical nursing administration, *determines*. A written examination may be supplemented by an oral or practical examination. On successfully passing the examination the *department* shall issue to the applicant a license to practice as a licensed practical nurse.

(2) The board — practical nursing administration, may issue a license to practice as a licensed practical nurse without examination to an applicant who has been licensed or registered as a licensed practical nurse or person entitled to perform like services under a different title under the laws of another state, territory, or country, if in the opinion of the practical nursing administration the applicant meets the requirements for practical nurses in this state.

(3) An applicant may, pending application for a practical nursing license under subsection (2) of this section, practice practical nursing as an employee of a physician or in a hospital or public health agency for a period of not longer than three (3) months from the date the *department* acknowledges receiving from the practical nurse a completed statement, on a form provided by the *department*, of intention to practice. The statement shall consist of an affidavit by the practical nurse; and an affidavit by the physician employer or by the administrator, assistant administrator, or director of nursing of a hospital or public health agency where the practical nurse intends to practice practical nursing. The affidavit of the nurse and the affidavit of the physician employer or administrator, assistant administrator, or director of nursing of the hospital or public health agency shall contain the information *considered* by the board necessary for the statement. This subsection does not permit the nurse to practice for more than a three (3) month period, or in any event, after being notified by the board, through the *department*, that the application for a license has been denied, or in all cases, after being notified by the board, through the *department*, to cease and desist this practice. Notice shall be given by registered or certified mail to the address of the applicant as it appears in the statement of application."

Section 122. Section 66-1234, R.C.M. 1947, is amended to read as follows:

"66-1234. **Fee.** An applicant for a license to practice as a licensed practical nurse shall pay a fee of twenty-five dollars (\$25) to the *department* at the time the application is submitted, which fee shall be returned to the applicant if the application is withdrawn not later than five (5) days prior to the date of examination or the final submission to the board of application for endorsement without examination, subject to a deduction of five dollars (\$5) to be retained by the *department*."

Section 123. Section 66-1236, R.C.M. 1947, is amended to read as follows:

"66-1236. **Renewal of license.** (1) The license of a person licensed under this act must be annually renewed. Before December 1 of each year, the *department* shall mail an application form for renewal of license to every person to whom a license was issued or renewed during the year. The applicant shall carefully complete and subscribe the application form and return it to the *department* with a renewal fee of five dollars (\$5) before January 1. On receipt of the application and fee the *department* shall verify the accuracy of the application against its record, and from other sources the board considers reliable, and issue to the applicant a certificate of renewal for the current year beginning January 1 and expiring December 31, following. The certificate of renewal renders the holder a legal practitioner of nursing for the period stated in the certificate of renewal.

(2) A licensee who allows his license to lapse by failing to renew the license may be reinstated by the board on satisfactory explanation for the failure to renew license and on payment of the current renewal fee prescribed by the board.

(3) A person practicing nursing during the time following the date his license has expired is an illegal practitioner and is subject to the penalties provided for violations of this act."

Section 124. Section 66-1237, R.C.M. 1947, is amended to read as follows:

"66-1237. **Disposition of fees.** Fees and fines collected by the *department* under this act shall be deposited in the earmarked revenue fund for the use of the board subject to section 82A-1603(6)."

Section 125. Section 66-1238, R.C.M. 1947, is amended to read as follows:

"66-1238. **Schools of nursing — application for approval.** An institution desiring to conduct a school of professional or practical nursing shall apply to the *department*, and submit evidence that:

(1) It is prepared to carry out the prescribed basic professional nursing curriculum or the prescribed curriculum for practical nursing, as the case may be; and

(2) It is prepared to meet other standards established by this law and by the board."

Section 126. Section 66-1239, R.C.M. 1947, is amended to read as follows:

"66-1239. **Survey and approval — secretary.** (1) A survey of the institution or institutions with which the school is to be affiliated shall be made by the *department*, which shall submit a detailed written report of the survey to the board. If, in the opinion of the board, the requirements for an approved school of nursing (professional or practical) are met, it shall approve the school as an approved school of nursing.

(2) When the board determines that an approved school of nursing is not maintaining the standards required by law and by the board, notice in writing specifying the defect shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be removed from the list of approved schools of nursing.

(3) Any secretary hired by the department to provide services to the board in connection with the board's duties of prescribing curricula and standards for nursing schools, making surveys of and approving schools and courses, evaluating and approving courses for affiliation of student nurses, and reviewing qualifications of applicants for licensure for the board shall be:

- (a) A citizen of the United States;
- (b) A graduate of an approved school of nursing;
- (c) A holder of at least a bachelor's degree;
- (d) A registered professional nurse with at least five (5) years' experience in teaching or administration in an approved school of nursing."

Section 127. Section 66-1240, R.C.M. 1947, is amended to read as follows:

"66-1240. **Grounds for discipline.** The board, acting under the appropriate administration, may deny, revoke or suspend a license to practice nursing or discipline a licensee on proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;
- (2) Is guilty of a crime or gross immorality;
- (3) Is unfit or incompetent by reason of negligence, habit, or other causes;
- (4) Is habitually intemperate or is addicted to the use of habit-forming drugs;
- (5) Is mentally or physically incompetent;
- (6) Is guilty of unprofessional conduct;
- (7) Has willfully or repeatedly violated this act; but only after compliance with section 66-1241."

Section 128. Section 66-1241, R.C.M. 1947, is amended to read as follows:

"66-1241.-**Disciplinary proceedings.** (1) On filing a sworn complaint in writing with the board, charging a person with violation of section 66-1240 as a ground for disciplinary action, the board shall fix a time and place for a public hearing before the board to be convened in membership as the five-member board for professional nurses, or as the eight-member board for practical nurses, depending on the professional or practical status of the licensee, nurse, or person against whom complaint is made.

(2) If the person charged is found guilty of the charges the board may refuse to grant a license to the applicant or may revoke or suspend a license issued to a licensee.

(3) A revoked or suspended license may be reissued after one (1) year, in the discretion of the board."

Section 129. There is a new section to be numbered 66-1301.1, R.C.M. 1947, which reads as follows:

66-1301.1. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Board" means the board of optometrists, provided for in section 82A-1602.19; and

(2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 130. Section 66-1302, R.C.M. 1947, is amended to read as follows:

"66-1302. **Provisions regulating practice of optometry.** (1) It is unlawful for a person:

(a) To practice optometry in this state unless he has first obtained a certificate of registration, and filed it or a certified copy with the county clerk and recorder of the county of his residence;

(b) To sell, barter, or offer to sell or barter a certificate of registration issued by the department;

(c) To purchase or procure by barter a certificate of registration with intent to use it as evidence of the holder's qualification to practice optometry;

(d) To materially alter with fraudulent intent a certificate of registration;

(e) To use or attempt to use a certificate of registration which has been purchased, fraudulently issued, counterfeited, or materially altered as a valid certificate of registration;

(f) To practice optometry under a false or assumed name;

(g) To willfully make a materially false statement in an application for an examination by the department or for a certificate of registration;

(h) To advertise by displaying a sign or by otherwise holding himself

out to be an optometrist without having at the time a valid certificate of registration;

(i) To replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions, without having at the time a valid certificate of registration as an optometrist; however, *this subsection does not* prevent an optical mechanic from doing the merely mechanical work on an ophthalmic lens which is ordered on a prescription signed by a *registered* optometrist and is dispensed only by the optometrist or a person employed by the optometrist and who does so in the office of and under the direct personal supervision of an optometrist;

(j) To take or make measurements for the purpose of fitting or adapting ophthalmic lenses to the human eye, without having at the time a valid certificate of registration. A person who *takes or makes* measurements or *uses* mechanical devices for this purpose or who in the sale of spectacles, eyeglasses, or lenses *uses*, in the testing of the eyes, lenses other than the lenses actually sold, is practicing optometry. *However*, this section *does not* apply to the prescriptions of qualified optometrists when sent to a recognized optical laboratory.

(k) To advertise at a price, or stated terms of a price, or as being free, the following: The examination or treatment of the eyes, furnishing of optometrical services, or furnishing a lens, lenses, contact lens, contact lenses, glasses, frames, or fitting thereof. *However*, this subdivision *does not* apply to advertising goggles, sunglasses, colored glasses, or occupational eye-protective devices, if they are not made with refractive values and are not advertised in connection with the practice of optometry or professional service.

(l) To adapt a lens to direct contiguous contact to the human eyeball without having at the time a valid certificate of registration as an optometrist.

(2) When the board has reasonable cause to believe that a person is violating this section, or a rule issued under this chapter, it may, in addition to other remedies provided in this chapter, bring an action for injunctive relief in district court in the county where the violation occurs to enjoin the person from engaging in or continuing the violation. The department may employ legal counsel to prosecute these actions. In these actions, and on notice and hearing, an order or judgment may be entered awarding a temporary restraining order or final injunction as considered proper by the judge of the district court in the county where the violation occurred. This chapter does not apply to physicians and surgeons authorized to practice under the laws of this state nor to a person employed in the office of and acting under the direct personal supervision of a physician or surgeon, nor to a person excepted from this chapter by section 66-1316."

Section 131. Section 66-1303, R.C.M. 1947, is amended to read as follows:

"66-1303. **Rules — seal.** (1) The board may adopt rules for the regulation, conduct, supervision, and procedure governing all applicants for certificates of registration as optometrists and the practice of optometry not inconsistent with the provisions of this act.

(2) The board shall have a common seal."

Section 132. Section 66-1304, R.C.M. 1947, is amended to read as follows:

"66-1304. **Officers of board — meetings.** The board shall annually choose from its members a president and secretary, both of whom may administer oaths and take affidavits. The board shall meet at least once each year at Helena, or some other place designated by the president, on the fourth Monday of July, and in addition, whenever, and wherever the president and secretary call a meeting. The department shall keep a record of the proceedings of the board, which shall be open to public inspection."

Section 133. Section 66-1305, R.C.M. 1947, is amended to read as follows:

"66-1305. **Examinations — admission to practice — nonresidents.**

(1) The board shall adopt rules relative to and governing the qualifications of applicants for certificates of registration as optometrists; and if the applicant does not meet the requirements of the rules, he is not eligible to take an examination to practice optometry in this state. If the applicant meets the requirements of the rules, he, must pass an examination given by the department, subject to section 82A-1603. Examinations shall be practical in character and designed to ascertain the applicant's fitness to practice the profession of optometry, and shall be conducted in the English language. The department shall publish and distribute the examination requirements for a certificate to practice optometry in this state. The board may accept the grades an applicant has received in the written examinations given by the national board of examiners in optometry.

(2) No person is eligible to take the examination unless he is eighteen (18) years of age, a citizen of the United States, and of good moral character.

(3) No person is eligible to take the examination unless he has certificates of graduation from an accredited high school and from a school of optometry in which the practice and science of optometry is taught in a course of study covering eight (8) semesters, or four (4) years, of actual attendance and which is accredited by the international association of boards of examiners in optometry. Instead of the certificates of graduation an applicant for examination may, with like effect, furnish an affidavit that he has practiced optometry exclusively for a period of at least six (6) years in some other state or states.

(4) A person desiring to be examined in optometry shall file an application in the manner prescribed by the board at least four (4) weeks before the examination is held, and a fee of twenty-five dollars (\$25) shall accompany the application.

(5) A person successfully passing the examination shall be registered in a register, which shall be kept by the department, and on the payment of a fee of ten dollars (\$10) shall receive a certificate of registration signed by the members of the board.

(6) If an applicant for a certificate of registration has been admitted to practice optometry in another state, and has attained an average of seventy-five percent (75%) in his examination in the other state, he may,

at the discretion of the board, be granted a certificate to practice his profession in *this state*, without examination, on payment of all fees, if the state from which *the* applicant comes offers equal privileges to applicants for certificates of registration from this state."

Section 134. Section 66-1307, R.C.M. 1947, is amended to read as follows:

"66-1307. **Renewal of registration — revocation — fees.** A registered optometrist who desires to continue the practice of optometry in this state shall annually before July 2 of each year pay to the *department* a renewal fee not to exceed the sum of fifty dollars (\$50) in return for which a renewal of registration shall be issued. If a person *fails* or *neglects* to procure his annual renewal of registration, his certificate of registration shall be revoked by *the* board; however, no certificate of registration *may* be revoked without ninety (90) days' notice having been given to the delinquent, who within *this* period *may* renew his certificate of registration on the payment of the renewal fee with a penalty of thirty-five dollars (\$35)."

Section 135. Section 66-1308, R.C.M. 1947, is amended to read as follows:

"66-1308. **Registration of certificate in county.** Recipients of the certificate of registration shall present *it* for record to the county clerk and recorder of the county in which they reside, and shall pay a fee of one dollar (\$1) to the county clerk and recorder for recording *it*. The county clerk and recorder shall record *the* certificate in a book to be provided by him for that purpose. A person licensed, *who moves* from one county to another in this state, shall, before engaging in the practice of optometry in *the* other county, obtain from the county clerk and recorder of the county in which *the* certificate of registration is recorded a certified copy of *the* record, or else obtain a new certificate of registration from the *department* and shall before commencing practice in *the* county, file the *certificate* for record with the county clerk and recorder of the county to which he *moves*, and pay the county clerk and recorder, for recording *it*, a fee of one dollar (\$1). A failure, neglect, or refusal on the part of a person holding the certificate or copy of record to file *it* for record, for six (6) months after issuance, *forfeits it*. The *department* is entitled to a fee of one dollar (\$1) for the reissue of a certificate and the county clerk and recorder of a county is entitled to a fee of one dollar (\$1) for making and certifying the copy of the record of a certificate."

Section 136. Section 66-1311, R.C.M. 1947, is amended to read as follows:

"66-1311. **Compensation of board.** Each member of the board may receive as compensation the sum of twenty-five dollars (\$25) and necessary expenses for each day actually engaged in the duties of his office. *Money collected* by the *department* shall be deposited in the earmarked revenue fund for the use of the board, *subject to section 82A-1603(6)*."

Section 137. Section 66-1312, R.C.M. 1947, is amended to read as follows:

"66-1312. **Revocation of certificate for cause.** *The board may* revoke a certificate of registration for conviction of crime, habitual drunkenness, contagious or infectious disease, gross immorality, gross ignorance or inefficiency in his profession, or unprofessional conduct. Unprofessional conduct *includes obtaining* a fee by fraud or misrepresentation; employing directly or indirectly a suspended or unlicensed optometrist to perform work covered by this act; directly or indirectly accepting employment to practice optometry from a person not having a valid certificate of registration as an optometrist, or accepting employment to practice optometry from a company or corporation, or accepting employment to practice optometry for a company or corporation; permitting another to use his certificate of registration; soliciting or sending a solicitor from house to house; treatment or advice in which untruthful or improbable statements are made; professing to cure disease; advertising in which ambiguous or misleading statements are made; or the use in advertising of the expression "eye specialist" or "specialist on eyes" in connection with the name of an optometrist. *This act does* not prohibit legitimate or truthful advertising by a registered optometrist. *Before* a certificate is revoked, the holder shall be given a *notice and an opportunity for a hearing*."

Section 138. Section 66-1314, R.C.M. 1947, is amended to read as follows:

"66-1314. **Penalty for violations.** A person who *violates* this act or the rules of the board is guilty of a misdemeanor, and on conviction shall be *fin*ed not less than two hundred dollars (\$200) and not more than five hundred dollars (\$500), or *imprisoned* in the county jail not exceeding six (6) months, or both *fin*ed and *imprisoned*. *Fines collected* shall be deposited in the earmarked revenue fund for the use of the board, *subject to section 82A-1603(6)*."

Section 139. Section 66-1318, R.C.M. 1947, is amended to read as follows:

"66-1318. **Attendance at continuing educational programs prerequisite for license renewal — exemption.** A licensed optometrist in active practice in *this* state is required to attend not less than twelve (12) hours annually of scientific clinics, forums, or optometric educational studies as may be provided or approved by the board as a prerequisite for his license renewal. A copy of this *section* shall be sent to each licensee by the *department* prior to the license renewal date each year. The board may exempt from this requirement those licensees who submit satisfactory proof that they were prevented from attending educational programs during the preceding year due to illness or for other good reason."

Section 140. Section 66-1401, R.C.M. 1947, is renumbered 82A-1602.20, and is amended to read as follows:

"82A-1602.20. **Board of osteopathic physicians — appointment — qualifications — term.** (1) *There is a board of osteopathic physicians.*

(2) *The board consists of three (3) members appointed by the governor. Each member shall be a qualified practicing resident osteopath and a graduate of a legally authorized school of osteopathy.*

(3) *Each member shall serve for a term of four (4) years."*

Section 141. There is a new section to be numbered 66-1401.1, R.C.M. 1947, which reads as follows:

66-1401.1. **Definitions.** Unless the context requires otherwise, in this act: (1) "Board" means the board of osteopathic physicians, provided for in section 82A-1602.2; and,

(2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 142. Section 66-1402, R.C.M. 1947, is amended to read as follows:

"66-1402. **Duties of board and department.** (1) *The board shall elect a president, a secretary, and treasurer on the first Tuesday in March each year, from among its number, and shall have a seal, and its president and secretary may administer oaths.*

(2) *The department shall, subject to section 82A-1603, hold examinations at the state capitol on the first Tuesday in March and September of each year.*

(3) *The board shall hold meetings as necessary, each session not to exceed three (3) days.*

(4) *The department shall issue a certificate of qualification to applicants having a diploma from a legally recognized and regularly conducted school of osteopathy at the time it was issued, or who pass required examinations under section 66-1404. The certificate shall be signed by the president and secretary of the board, and attested by its seal, and is conclusive of the right of the lawful holder to practice osteopathy in this state.*

(5) *The department shall keep a record of the board's proceedings; a register of applicants for a license, including his name, age, and time spent in the study and practice of osteopathy, and the name and location of the college of osteopathic medicine from which the applicant holds a diploma; and a register of the names of applicants licensed and rejected under this act. These books are prima facie evidence of matters recorded."*

Section 143. Section 66-1403, R.C.M. 1947, is amended to read as follows:

"66-1403. **Regulation — osteopathic licenses — educational qualifications — renewal.** (1) *It is unlawful for a person to practice osteopathy in this state without a license from the department. An applicant applying for licensure shall be a person of good moral character. An applicant shall present evidence to the board that he has completed the following educational and professional requirements: four (4) years of high school or its scholastic equivalent; at least two (2) years preprofessional college education in an accredited college or university; and four (4) years professional education in an osteopathic college conforming to the minimum educational standards for osteopathic colleges established by the American osteopathic association and which is approved by the board. Application shall be made on forms prescribed by the board and furnished by the department. An applicant who fails the examination is entitled to a second examination without charge.*

(2) *A person holding a certificate to practice under this act and who is in active practice in this state, shall before April 1 of each year pay a renewal fee of fifteen dollars (\$15) to the department; and a person holding a certificate to practice under this act, who is not in active practice, shall before April 1 of each year pay a renewal fee of seven dollars and fifty cents (\$7.50) to the department. The department shall before March 15 of each year send a notice to each person holding a valid certificate to practice under this act and from whom a fee is due stating that the fee is due.*

(3) *The certificate to practice under this act automatically becomes void when the renewal fee is not paid at the time named. However, the board may reinstate a practitioner whose certificate has lapsed on payment of back renewal fees or on payment of fifty dollars (\$50) if the lapsed fees exceed that amount."*

Section 144. Section 66-1404, R.C.M. 1947, is amended to read as follows:

"66-1404. **Temporary certificates.** The secretary of the board may authorize the department, upon examination, to issue a certificate to an applicant to practice osteopathy until the next meeting of the board when he shall report the facts, at which time the temporary certificate expires, but the temporary certificate may not be issued after the board has once rejected the applicant."

Section 145. Section 66-1405, R.C.M. 1947, is amended to read as follows:

"66-1405. **Subjects of examination.** (1) *A person commencing the practice of osteopathy in this state, in any of its branches, shall apply to the department for a license to do so, and the applicant at the time and place designated by the board, shall submit to an examination in the following subjects: anatomy, physiology, chemistry, pathology, bacteriology, gynecology, obstetrics, and theory and practice of osteopathy, and other subjects taught in well regulated and recognized schools of osteopathy and considered advisable by the board and shall present evidence of having actually attended, as required in section 66-1403, a legally authorized and regularly conducted school of osteopathy, recognized by the board, except as otherwise provided in section 66-1402.*

(2) *Examination papers on subjects peculiar to osteopathy shall be graded by the department, subject to section 82A-1603. The examination shall be scientific and practical, but of sufficient severity to test the candidate's fitness to practice osteopathy.*

(3) *After examination the department shall issue a license to applicants who pass the examination to practice osteopathy in this state, which license shall be granted by not less than two (2) members of the board, attested by the board's seal. The fee for the examination and license is twenty dollars (\$20)."*

Section 146. Section 66-1410, R.C.M. 1947, is amended to read as follows:

"66-1410. **Compensation of board — deposit of fees.** (1) Each of

the members of *the* board may receive as compensation a sum not to exceed twenty dollars (\$20) for each day actually engaged in the duties of their office, together with legitimate and necessary expenses incurred in attending the meetings of *the* board.

(2) The fees collected by the department under this chapter shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 147. Section 66-1411, R.C.M. 1947, is amended to read as follows:

"66-1411. **Graduates may be licensed without examination — practitioners from other states.** A graduate of a reputable school of osteopathy, who has been strictly examined and licensed to practice osteopathy in another state, may be licensed to practice osteopathy in this state on production to the board of his diploma, and the license obtained in *the* other state, and satisfactory evidence of good moral character, and the payment of fees required of other applicants; but the board may *have* the applicant *examined* as to his qualifications."

Section 148. Section 66-1502, R.C.M. 1947, is amended to read as follows:

"66-1502. **Definitions.** Unless the context requires otherwise, in this act:

(1) "**Pharmacy**" means a drug store or other established place registered by the department of professional and occupational licensing, in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended, or sold at retail.

(2) "**Pharmacist**" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons, and *who may* affix to his name the term REG-PH.

(3) "**Intern**" means a natural person licensed by the department to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons in a pharmacy having a pharmacist in charge.

(4) "**Drug**" means (a) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or a supplement to *them*; (b) articles intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (c) articles (other than food) intended to affect the structure or function of the body of man or other animals; and (d) articles intended for use as a component of an article specified in subsection (a), (b) or (c), but does not include devices or their components, parts, or accessories.

(5) "**Medicine**" means a remedial agent which has the property of curing, preventing, treating, or mitigating diseases, or which is used for *this* purpose.

(6) "**Poison**" means a substance which, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or which destroys living tissue with which it comes in contact.

(7) "**Chemical**" means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(8) "**Board**" means the board of pharmacists, provided for in section 82A-1602.21.

(9) "**Person**" includes an individual, copartnership, corporation, or association.

(10) "**Department**" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

(11) "**Wholesale**" means a sale for the purpose of resale.

(12) "**Commercial purposes**" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

(13) "**Prescription**" means an order given individually for the person for whom prescribed directly from the prescriber to the furnisher or indirectly to the furnisher by means of an order signed by the prescriber and *bearing* the name and address of the prescriber, his license classification, the name of the patient, the name and the quantity of the drug or drugs prescribed, the directions for use and the date of its issue. These stipulations apply to both written and telephoned prescriptions."

Section 149. Section 66-1503, R.C.M. 1947, is renumbered 82A-1602.21, and is amended to read as follows:

"82A-1602.21. **Board of pharmacists — appointment — qualifications — term.** (1) *There is a board of pharmacists.*

(2) *The board consists of three (3) members appointed by the governor. The governor shall appoint the members from a list submitted annually by the Montana state pharmaceutical association. The list shall contain the names of five (5) qualified persons for each appointment. Each member shall be a graduate of the college of pharmacy of the university of Montana, or of a college or school of pharmacy recognized and approved by, or a member of, the American association of colleges of pharmacy. Each member shall have at least five (5) consecutive years of practical experience as a pharmacist immediately before his appointment. However, one (1) member may be a registered pharmacist of fifteen (15) years' practical experience and actually engaged in the practice of pharmacy. A member who, during his term of office, ceases to be actively engaged in the practice of pharmacy in this state, shall be automatically disqualified from membership on the board.*

(3) *Each member shall serve for a term of three (3) years. A member shall be removed from office by the governor on proof of malfeasance or misfeasance in office, after reasonable notice of charges against him and after a hearing."*

Section 150. Section 66-1504, R.C.M. 1947, is amended to read as follows:

"66-1504. **Powers of board and department.** (1) The board shall annually elect from its members a president, vice-president, and secretary.

(2) The board shall:

- (a) *Regulate* the practice of pharmacy in *this* state subject to this act;
- (b) *Determine* the minimum equipment necessary in and for a pharmacy and drug store;
- (c) *Regulate* under therapeutic classification, the sale of drugs, medicines, chemicals, and poisons and their labeling;
- (d) *Regulate* the quality of drugs and medicines dispensed in this state, using the United States pharmacopoeia and the national formulary, or revisions thereof, as the standards;
- (e) *Request the department* to enter and inspect at reasonable times places where drugs, medicines, chemicals, or poisons are sold, vended, given away, compounded, dispensed, or manufactured. It is a misdemeanor for a person to refuse to permit or otherwise prevent *the department* from entering *these* places and making *an* inspection.
- (f) *Regulate* the practice of interns under national standards;
- (g) *Revoke* temporarily or permanently, licenses issued by *the department* to a pharmacist or intern whenever the holder of *the* license has obtained *it* by false representations or fraud, is an habitual drunkard or addicted to the use of narcotic drugs, *has* been convicted of a felony, *has* been convicted of violating the pharmacy law, or *has* been found guilty by the board, of incompetency in the preparation of prescriptions or guilty of gross immorality affecting the discharge of his duties as a pharmacist or assistant.
- (h) *Make* rules for the conduct of its business.
- (i) *Perform* other duties and exercise other powers as *this act* requires.
- (j) *Adopt* and *authorize the department* to publish rules for carrying out and enforcing *this act*.

(3) *The department shall license, register, and examine, subject to section 82A-1603, applicants whom the board considers qualified under this act; license pharmacies and certain stores under this act; and issue certificates of "certified pharmacy" under this act."*

Section 151. Section 66-1505, R.C.M. 1947, is amended to read as follows:

"66-1505. **Salaries and expenses of officers of board.** Each member of the board shall receive fifteen dollars (\$15) a day for his actual services and his necessary expenses in attending meetings."

Section 152. Section 66-1506, R.C.M. 1947, is amended to read as follows:

"66-1506. **Examination of applicants for registration — fees — certificates.** (1) The board shall meet at least once a year to transact its business. *The department shall give* reasonable notice of examinations by mail, to known applicants. The *department* shall record the names of persons examined together with the grounds on which the right of each to examination was claimed and also the names of persons registered by examination or otherwise. The fee for *an* examination is twenty-five

dollars (\$25) which fee may, in the discretion of the board, be returned to applicants not taking the examination.

(2) *On* again making payment of *the* fee *an* applicant who fails is entitled to take the next succeeding examination free of charge.

(3) *The fee* for registration by reciprocity is fifty dollars (\$50).

(4) To be entitled to examination as a pharmacist, the applicant shall be a citizen of the United States, of good moral character, and a graduate of the school of pharmacy of the university of Montana or of a college or school of pharmacy recognized and approved by, or a member of, the American association of colleges of pharmacy, but *the* applicant *may* not receive a registered pharmacist's license until he has complied with the internship requirements established by the board. During this period, *if* the applicant has passed *the* examination, he shall be licensed as an intern only.

(5) The board may, in its discretion, *authorize the department* to grant registration without examination, to a pharmacist licensed by a board of pharmacy or a similar board of another state which accords similar recognition to licensees of this state, *if* the requirements for registration in *the* other state are, in the opinion of the board, equivalent to the requirements of *this act*. Every person licensed and registered under this act shall receive from the *department* an appropriate certificate attesting the fact, which shall be conspicuously displayed at all times in his place of business. If the holder is entitled to manage or conduct a pharmacy in *this* state for himself or another, the fact shall be set forth in the certificate."

Section 153. Section 66-1507, R.C.M. 1947, is amended to read as follows:

"66-1507. **Annual renewal of registration fees.** A person licensed and registered by the *department* shall annually pay to the *department* before June 30, a renewal of registration fee of fifteen dollars (\$15). A default in the payment of a renewal fee for a period of thirty (30) days after the date it is due *increases* the renewal fee to thirty dollars (\$30). It is unlawful for a person who refuses or fails to pay *the* renewal fee to practice pharmacy in this state. The practice of pharmacy is a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. A certificate and renewal *expires* at the time prescribed, not later than one (1) year from its date. A *defaulter* in a renewal fee may be reinstated within one (1) year of the default without examination on payment of the arrears."

Section 154. Section 66-1508, R.C.M. 1947, is amended to read as follows:

"66-1508. **Store license — certified pharmacy license — suspension or revocation.** (1) *The department* shall on application on forms prescribed by the board and on the payment of an annual fee of five dollars (\$5), license stores other than a pharmacy in which are sold ordinary household or medicinal drugs prepared in sealed packages or bottles by a manufacturer, qualified under the laws of the state in which the

manufacturer resides. The name and address of *the* manufacturer shall appear conspicuously on each package sold by *the* licensee. It is unlawful for a store to sell, deliver, or give away household medicinal drugs, without first having secured a license and thereafter keeping it in force by proper renewal. *This subsection does not prevent a vendor from selling a patent or proprietary medicine in the original package when plainly labeled, nor nonmedical articles usually sold by vendors.*

(2) The board shall provide for the annual registration and licensing by *the department* of every pharmacy doing business in this state. On presentation of evidence satisfactory to the board and on application on a form *prescribed by the board* and on the payment of an annual fee of twenty dollars (\$20), the *department* shall *issue a license to a pharmacy* as a "CERTIFIED PHARMACY"; however, *the license may be granted only to pharmacies operated by registered pharmacists or registered interns qualified under this act. The license must be displayed in a conspicuous place in the pharmacy for which it is issued, and expires on June 30 following the date of issue. It is unlawful for a person to conduct a pharmacy, use the word pharmacy to identify his business, or use the word pharmacy in advertising unless a license has been issued and is in effect.*

(3) The board may suspend, revoke, or refuse to renew a store or pharmacy license obtained by false representation or fraud; when the pharmacy for which the license is issued is kept open for the transaction of business without a pharmacist in charge; when the person to whom the license is granted has been convicted of a violation of *this act*, a felony, or a violation of the Federal Food, Drug and Cosmetic Act of June 25, 1938, (52 *Stats.* 1040 through 1059) if a natural person, whose pharmacist or intern license has been revoked; or when the store or pharmacy is conducted in violation of this act. Before a license can be revoked the holder is entitled to a hearing by the board."

Section 155. Section 66-1511, R.C.M. 1947, is amended to read as follows:

"66-1511. **Poison register to be kept by pharmacists may be required by board.** The board may by a rule require registered *pharmacists* to keep a poison register which may require a record of poisons sold or disposed of, the signature of the purchaser, and other information required by *the board*. *The board may provide by rule what are poisons.*"

Section 156. Section 66-1512, R.C.M. 1947, is amended to read as follows:

"66-1512. **Revocation of license for failure to keep record or falsifying.** *If a pharmacist sells or disposes of poison without keeping a record of it, keeps a false record of it, permits the sale or disposal of it without keeping a record, or otherwise violates rules made by the board the board may revoke the license of the pharmacist.*"

Section 157. Section 66-1521, R.C.M. 1947, is amended to read as follows:

"66-1521. **Attorney general to be attorney for board — prosecutions — duties of county attorneys.** The attorney general is the

attorney for the board. The *department* shall, under rules *adopted by the board*, assist the board and the attorney general in the administration and enforcement of this act. *The county attorney of a county in which an offense under this act is committed shall prosecute the offender. The board, the department, or the county attorney may examine the books of a manufacturer, druggist, storekeeper, wholesale dealer, pharmacist, intern, or pharmacy in this state for the purpose of acquiring information to aid in prosecutions under this act.*"

Section 158. There is a new section to be numbered 66-1521.1, R.C.M. 1947, which reads as follows:

66-1521.1. **Qualifications of employee hired by department.** A person hired by the department to enter and inspect an establishment under this chapter; to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern; to assist in a prosecution under this chapter; and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall be:

- (1) A citizen of the United States and a resident of this state; and
- (2) A pharmacist registered under this chapter with five (5) years of practical experience.

Section 159. Section 66-1527, R.C.M. 1947, is amended to read as follows:

"66-1527. **Disposition of fees and fines.** *Fines paid under this act and fees collected by the department for registration and licenses issued under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6).*"

Section 160. There is a new section to be numbered 66-1807.1, R.C.M. 1947, which reads as follows:

66-1807.1. **Definitions.** Unless the context requires otherwise, in this act:

- (1) "Board" means the board of public accountants, provided for in section 82A-1602.2; and
- (2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 161. Section 66-1813, R.C.M. 1947, is renumbered 82A-1602.2, and is amended to read as follows:

"82A-1602.2. **Board of public accountants — appointment — qualifications — term.** (1) There is a board of public accountants.

(2) *The board consists of five (5) members appointed by the governor. The members are:*

(a) *Three (3) certified public accountants certified under section 66-1819 who have been certified and actively engaged in the practice of public accounting for at least five (5) years before their appointment. The Montana society of certified public accountants shall submit to the gover-*

nor biennially a list of names of two (2) candidates from which the appointments of these members may be made. However, the governor is not restricted to the names on this list. These members may not be residents of the same county.

(b) Two (2) public accountants licensed under section 66-1820 who have been actively engaged in the practice of public accounting for at least five (5) years before their appointment. The Montana society of public accountants shall submit to the governor biennially a list of names of two (2) candidates from which the appointment of these members may be made. However, the governor is not restricted to the names on this list. These members may not be residents of the same county.

(3) All members shall be residents of this state and citizens of the United States, and hold current licenses under section 66-1833. The governor shall remove any member whose license to practice has become void, revoked, or suspended, or who ceases to be engaged in the practice of public accounting.

(4) Each member shall serve for a term of six (6) years. A member who has served two (2) successive complete terms is not eligible for reappointment until after the lapse of one (1) year. The governor may, after a hearing, remove a member for neglect of duty or other just cause."

Section 162. Section 66-1815, R.C.M. 1947, is amended to read as follows:

"66-1815. **Powers and duties of department and board.** (1) The board shall elect annually a chairman, secretary, and treasurer from its members. (2) The board may adopt rules for the conduct of its affairs and the administration of this act. (3) A quorum for the transaction of business consists of three (3) members of the board. (4) The board shall have a seal which shall be judicially noticed. (5) The department shall keep records of the board's proceeding. In a proceeding in court, civil or criminal, arising out of or founded on this act, copies of these records certified as correct under the seal of the board are admissible in evidence as tending to prove the content of these records. (6) Each member of the board shall receive as compensation twenty dollars (\$20) for each day actually engaged in the duties of his office, and, in addition, shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties."

Section 163. Section 66-1816, R.C.M. 1947, is amended to read as follows:

"66-1816. **Disposition of funds.** Fees and other moneys collected by the department under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 164. Section 66-1817, R.C.M. 1947, is amended to read as follows:

"66-1817. **Rule-making powers of the board.** The board may make rules of professional conduct appropriate to establish and maintain a high standard of integrity, dignity, and competency in the profession of public accountancy. At least sixty (60) days prior to the adoption of a rule or

amendment, the department shall mail copies of the proposed rule or amendment to each holder of a license issued under section 66-1833, with a notice advising him of the proposed effective date of the rule or amendment and requesting that he submit his comments on it at least fifteen (15) days prior to the effective date. These comments are advisory only. The department's certificate of mailing to licensed accountants is conclusive proof thereof."

Section 165. Section 66-1818, R.C.M. 1947, is amended to read as follows:

"66-1818. **Examinations.** Except as provided in section 82A-1603(4), the department shall hold and grade a written examination in accounting, auditing, and related subjects as the board determines appropriate. The grade determination of the department is final in each case. The department shall use the examination and grading services of the American Institute of Certified Accountants. The examination shall be held at least annually and at such other times as applications warrant. The board may determine the time and place of examination and may adopt rules necessary for the orderly conduct of the examination."

Section 166. Section 66-1819, R.C.M. 1947, is amended to read as follows:

"66-1819. **Certificates of certified public accountants.** Certification as a certified public accountant is available to any person:

(1) Who is (a) a citizen of the United States or who has declared his intention of becoming a citizen, (b) is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state, and (c) is of good moral character;

(2) Who has successfully passed the certified public accountants' examination; and

(3) Who meets the requirements of education and experience in sections 66-1823, 66-1824 and 66-1825."

Section 167. Section 66-1820, R.C.M. 1947, is amended to read as follows:

"66-1820. **License of public accountants.** Licensure as a public accountant is available to any person:

(1) Who is (a) a citizen of the United States or who has declared his intention of becoming a citizen, (b) is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state, and (c) is of good moral character;

(2) Who meets the requirements of education and experience set forth in sections 66-1823, 66-1824 and 66-1825; and

(3) Who complies with the qualifications and requirements in any one of the subdivisions of section 66-1821."

Section 168. Section 66-1821, R.C.M. 1947, is amended to read as follows:

"66-1821. **Further requirements for licensure of public accountants.** (1) Persons serving in the armed forces of the United States on *July 1, 1969*, who immediately prior to entering *this* service held themselves out to the public as public accountants and who were engaged as principals, in this state, in the practice of public accounting as their principal occupation prior to service in the armed forces, may register with the department within six (6) months after the date of their separation from active service, and on registration and payment of the license fee, be issued a license by the department as a licensed public accountant. A principal is either the owner of or a partner in an existing accounting practice on *July 1, 1969*.

(2) A person who does not qualify under subdivision (1) must fulfill the following additional requirements, as a prerequisite to the issuance of a license as a licensed public accountant:

- (a) He must pass the written examination in accounting practice, and
- (b) He must also pass the written examination in either accounting theory or auditing, or *instead* of the examination in auditing or theory, he must be the holder of a United States Treasury card which is in good standing at the time of his sitting for the examination in accounting practice. The examinations referred to in this subdivision shall be those prescribed for subjects under section 66-1818, and shall be conducted and graded by the same standards as those given to candidates for certified public accountant."

Section 169. Section 66-1825, R.C.M. 1947, is amended to read as follows:

"66-1825. **Applicability of education and experience requirements.** (1) None of the foregoing education and experience requirements apply to a candidate for certified public accountant who holds a current license as a public accountant, or who, on *July 1, 1969*, was employed as a staff accountant in this state by a practicing public accountant, and is so employed at the time of his examination.

(2) A candidate who is otherwise eligible may take the examination provided for in section 66-1818 before meeting the age and experience requirements but the successful completion of *this* examination does not qualify him for a certificate or a license as a public accountant until he meets *these* requirements.

(3) The board may by rule provide for granting credit to a candidate for his satisfactory completion of a written examination in any one or more of the subjects of examination given by the licensing authority in another state, if when he took the examination he was not a resident of this state. *These rules* shall include requirements the board determines appropriate in order that an examination approved as a basis for credit is, in the judgment of the board, at least as thorough as that included in the most recent examination given in *this state* at the time of granting the credit.

(4) The experience requirements need not be continuous or for one (1) employer.

(5) Except as provided in subdivision (1) of this section, the applicable education and experience requirements are those in effect on the date of the examination by which the candidate successfully completes his examination; but the board may provide by rule for exceptions to the general rule in order to prevent what it determines to be undue hardship to candidates resulting from changes in the education and experience requirements."

Section 170. Section 66-1829, R.C.M. 1947, is amended to read as follows:

"66-1829. **Partnership composed of certified public accountants — registration thereof.** (1) A partnership engaged in this state in the practice of public accounting may register with the department as a partnership of certified public accountants provided it meets the following requirements:

(a) At least one (1) general partner must be a certified public accountant of this state in good standing, and must hold a license issued under section 66-1833 which is in effect;

(b) Each partner personally engaged in this state in the practice of public accounting must be a certified public accountant of this state in good standing and must hold a license issued under section 66-1833 which is in effect;

(c) Each partner must be a certified public accountant of some state in good standing; and

(d) Each staff member who is employed in this state, and who is certified under section 66-1819 or registered under section 66-1820, must hold a license issued under section 66-1833 which is in effect.

(2) Application for registration must be made on the affidavit of a general partner of the partnership who is a certified public accountant of this state in good standing. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is registered may use the words "certified public accountants" or the abbreviation "CPA's" in connection with its partnership name. Notification shall be given the department within one (1) month after the admission to or withdrawal of a partner from a partnership so registered."

Section 171. Section 66-1830, R.C.M. 1947, is amended to read as follows:

"66-1830. **Temporary certificate and temporary license.** (1) If an applicant for a certificate as a certified public accountant meets the requirements for the certificate, other than the residence requirement, the board may, in its discretion authorize the department to, issue to him a temporary certificate as a certified public accountant which is effective only until the board notifies him that his application has been either granted or rejected. In no event may a temporary certificate be in effect for more than twelve (12) months.

(2) If an applicant for licensure as a public accountant meets the requirements for licensing, other than the residence requirement, the

board may, in its discretion, *authorize the department to issue to him a temporary license, as a licensed public accountant, which is effective only until the board notifies him that his application has been either granted or rejected. In no event may a temporary license be in effect for more than twelve (12) months.*"

Section 172. Section 66-1831, R.C.M. 1947, is amended to read as follows:

"66-1831. Partnerships composed of public accountants — registration thereof. (1) A partnership engaged in this state in the practice of public accounting may register with the *department* as a partnership of public accountants provided it meets the following requirements:

(a) At least one (1) general partner must be a certified public accountant or a licensed public accountant of this state in good standing and a holder of a license issued under section 66-1833 *which is in effect*;

(b) Each partner personally engaged *in this state* in the practice of public accounting must be a certified public accountant or a licensed public accountant of this state in good standing and a holder of a license issued under section 66-1833 *which is in effect*;

(c) Each local manager in charge of an office or a firm in this state must be a certified public accountant or a licensed public accountant of this state in good standing and a holder of a license issued under section 66-1833 *which is in effect*; and

(d) Each staff member employed within this state, *and* who is certified under section 66-1819 or registered under section 66-1820, must hold a license issued under section 66-1833 *which is in effect*.

(2) Application for registration must be made *on the affidavit of a general partner of the partnership who holds a license to practice in this state as a certified public accountant or as a licensed public accountant. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is registered may use the words "public accountants" in connection with its partnership name. Notification shall be given the department within one (1) month after the admission to or withdrawal of a partner from a partnership so registered.*"

Section 173. Section 66-1832, R.C.M. 1947, is amended to read as follows:

"66-1832. Registration of offices. Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant or a partnership of certified public accountants or by a licensed public accountant or a partnership of licensed public accountants or by one registered under section 66-1828 shall be registered annually under this act with the *department*. A fee *may not* be charged for *this* registration. The principals of sole proprietorships and staff employees who are employed *in this state* and who are holders of certificates as certified public accountants must also hold a license issued under section 66-1833 *which is in effect. Partnerships must be registered under section 66-1829 or section 66-1831, whichever is applicable, and foreign accountants under the provisions of section 66-1828.*"

Section 174. Section 66-1833, R.C.M. 1947, is amended to read as follows:

"66-1833. Annual licenses to practice. *Annual licenses to engage in the practice of public accounting in this state shall be issued by the department to holders of the certificate of certified public accountant issued under section 66-1819 and to persons licensed under section 66-1820, if all offices, if any, of the certificate holder or licensed public accountant are maintained and registered under section 66-1832. There is an annual license fee in an amount to be determined by the board, not to exceed twenty-five dollars (\$25) for a year or part thereof. Annual licenses expire on December 31 of each year and may be renewed annually for a period of one (1) year by certificate holders and licensed public accountants in good standing on payment of an annual renewal fee of not to exceed twenty-five dollars (\$25). Failure of a certificate holder or licensed public accountant to apply for the annual license to practice within three (3) years from the expiration date of the annual license to practice last obtained or renewed, or three (3) years from the date on which the certificate holder or licensee was granted his certificate or license, deprives him of the right to the annual license, unless the board, in its discretion, determines the failure to have been due to excusable neglect. A certificate holder or licensed public accountant who is retiring from active practice or other employment because of illness, age, marriage, or other justifiable cause, in the opinion of the board, may be placed on an inactive list, without prejudicing his right to be issued an annual license at a future date. A request for inactive status must be sent to the department within the three-year period as outlined in this section.*"

Section 175. Section 66-1836, R.C.M. 1947, is amended to read as follows:

"66-1836. Hearings before board. (1) The board may initiate proceedings under this act either on its own motion or on the complaint of a person. *Hearings and rule-making proceedings shall be governed in all respects by the Montana Administrative Procedure Act.*"

Section 176. Section 66-1837, R.C.M. 1947, is amended to read as follows:

"66-1837. Reinstatement. *On application in writing and after hearing pursuant to notice, the board may authorize the department to issue a new certificate to a certified public accountant whose certificate has been revoked, or may permit the relicensing of anyone whose license has been revoked, or may reissue or modify the suspension of a license to practice public accounting which has been revoked or suspended.*"

Section 177. Section 66-1924, R.C.M. 1947, is amended to read as follows:

"66-1924. Title — license required. (1) This act may be cited as the "Real Estate License Act of 1963."

(2) *It is unlawful for a person to engage in or conduct, directly or indirectly, or to advertise or hold himself out as engaging in or conducting*

the business, or acting in the capacity of a real estate broker or a real estate salesman within this state without a license as a broker or salesman, or otherwise complying with this act.

(3) *Corporations, partnerships, and associations may not be licensed under this act. A corporation or a partnership may act as a real estate broker if every corporate officer, and every partner, performing the functions of a "broker" as defined in section 66-1925(2), is licensed as a broker. All officers of a corporation or all members of a partnership, acting as a broker, are in violation of this act unless there is full compliance with this subsection.*

Section 178. Section 66-1925, R.C.M. 1947, is amended to read as follows:

"66-1925. **Definitions.** *Unless the context requires otherwise, in this act.*

(1) *"Real estate" includes leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and whether the real estate is situated in this state or elsewhere.*

(2) *"Broker" includes an individual who for another, or for a fee, commission, or other valuable consideration, or who with the intent or expectation of receiving the same, negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange, or lease of real estate or of the improvements thereon, or collects rents or attempts to collect rents, or advertises or holds himself out as engaged in any of the foregoing activities. The term "broker" also includes an individual employed by or on behalf of the owner or lessor of real estate, to conduct the sale, leasing, subleasing, or other disposition thereof at a salary or for a fee, commission, or any other consideration; it also includes an individual who engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which he undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose, or for referral of information concerning real estate to brokers, or both.*

(3) *"Salesman" includes an individual who, for a salary, commission, or compensation of any kind, is employed, either directly, indirectly, regularly, or occasionally, by a real estate broker to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.*

(4) *"Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this act it means an individual.*

(5) *"Board" means the board of real estate, provided for in section 82A-1602.23.*

(6) *"Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."*

Section 179. Section 66-1927, R.C.M. 1947, is amended to read as follows:

"66-1927. **Board — powers and duties — compensation.** (1) *The board shall from time to time adopt rules to carry out the provisions of this act.*

(2) *The department shall keep a record of proceedings, transactions, communications and official acts of the board, be custodian of the records of the board and shall cause to be performed other duties as the board on the written request of two (2) or more members of the board or at other times as the chairman in his discretion considers necessary. Neither the chairman nor an employee of the department, hired to provide services to the board, may be an officer or paid employee of any real estate association or group of real estate dealers or brokers.*

(3) *Each member of the board shall receive as compensation for each one-half day or portion thereof actually spent on his official duties the sum of seven dollars and fifty cents (\$7.50) and his actual and necessary expenses incurred in the performance of other duties provided for by the board.*

(4) *The board shall adopt a seal of a design as it shall prescribe. Copies of records and papers kept by the department, certified by the chairman and authenticated by the seal of the board, shall be received in evidence in courts with like effect as the original. Records of the board are open to public inspection under rules it prescribes."*

Section 180. Section 66-1929, R.C.M. 1947, is amended to read as follows:

"66-1929. **Licenses — applicants for licenses.** (1) *Licenses may be granted only to individuals considered by the board to be of good repute and competent to transact the business of a broker or salesman in a manner as to safeguard the interests of the public.*

(2) *An applicant for a broker's license shall be a citizen of the United States; shall be at least eighteen (18) years of age; shall have graduated from an accredited high school or completed an equivalent education as determined by the board; shall have been actively engaged as a licensed real estate salesman for a period of two (2) years or shall have had experience or special education equivalent to that which a licensed real estate salesman ordinarily would receive during this two (2) year period as determined by the board, except that if the board finds that an applicant could not obtain employment as a licensed real estate salesman because of conditions existing in the area where he resides, the board may waive this experience requirement; and shall file an application for license with the department. The board shall require information it considers necessary from an applicant to determine his honesty, trustworthiness, and competency.*

(3) *An applicant for a salesman's license shall be at least eighteen (18) years of age; shall have received credit for completion of two (2) years of full curriculum study at an accredited high school or completed an equivalent education as determined by the board; and must file an application for license with the department. His application shall be accompanied by the recommendation of the licensed broker by whom the applicant will be employed or placed under contract, certifying that the applicant*

is of good repute and that the broker will actively supervise and train the applicant during the period the requested license remains in effect. The *department* shall issue to each licensed broker and to each licensed salesman a license and a pocket card in a form and size as the *board* prescribes."

Section 181. Section 66-1930, R.C.M. 1947, is amended to read as follows:

"66-1930. **Written examination — contents — time and place — exemptions.** In addition to proof of honesty, trustworthiness, and good reputation, an applicant whose application is then pending shall satisfactorily pass a written examination prepared by or under the supervision of the *board*. The examination shall be given at least once each six (6) months and at places within the state the *board* prescribes. The examination for a salesman's license shall include business ethics, writing, composition, arithmetic, elementary principles of land economics and appraisal, a general knowledge of the statutes of this state relating to deeds, mortgages, contracts of sale, agency, brokerage, and this act. The examination for a broker's license shall be of a more exacting nature and scope and more stringent than the examination for a salesman's license. An applicant who has failed twice in succession to pass the same class of examination is ineligible for a further examination for six (6) months."

Section 182. Section 66-1931, R.C.M. 1947, is amended to read as follows:

"66-1931. **License — issuance — suspension — revocation.** The *board* may regulate the issuance of licenses and revoke or suspend licenses issued under this act."

Section 183. Section 66-1932, R.C.M. 1947, is amended to read as follows:

"66-1932. **License — delivery — display — pocket card.** The *board* shall prescribe the form of license. A license shall bear the seal of the *board*. The license of a real estate salesman shall be delivered or mailed to the real estate broker by whom the real estate salesman is employed, and shall be kept in the custody and control of the broker. A broker shall display his own license conspicuously in his place of business. The *department* shall annually prepare and deliver a pocket card certifying that the person whose name appears is a registered real estate broker or a registered real estate salesman, stating the period for which fees have been paid and, on real estate salesman's cards only, the name and address of the broker employing the real estate salesman."

Section 184. Section 66-1933, R.C.M. 1947, is amended to read as follows:

"66-1933. **Bond of brokers and salesmen.** No license may be issued or renewed until the applicant for a broker's license or salesman's license has filed a bond with the *department* in the sum of ten thousand dollars (\$10,000), executed by a surety company authorized to do business in this state in a form approved by the *board* and conditioned that the applicant, if and when licensed, shall conduct his business and himself in accordance

with this act, and shall pay, to the extent of ten thousand dollars (\$10,000), judgments recovered against him for loss or damage to a person arising in the course of the applicant's practice as a real estate broker or salesman. Bonds given by licensees under this act, after approval, shall be filed and held in the office of the *department*. If for a reason the bond of any broker or salesman is canceled or voided, the license of the broker or salesman is automatically suspended until the broker or salesman is again fully bonded and the bond has been approved by the *board*. If the suspension is not terminated by rebonding and approval within thirty (30) days from the date of suspension, the license of the broker or salesman is automatically revoked."

Section 185. Section 66-1934, R.C.M. 1947, is amended to read as follows:

"66-1934. **Fees — when due.** (1) The following fees shall be charged by the *department* and paid into the earmarked revenue fund for the use of the *board*, subject to sections 82A-1603(6):

- (a) For each examination, a fee not to exceed fifty dollars (\$50).
- (b) For each original resident broker's license issued, a fee not to exceed fifty dollars (\$50).
- (c) For each annual renewal of a resident broker's license, a fee not to exceed fifty dollars (\$50).
- (d) For each original nonresident broker's license issued, a fee not to exceed fifty dollars (\$50).
- (e) For each annual renewal of a nonresident broker's license, a fee not to exceed fifty dollars (\$50).
- (f) For each original salesman's license issued, a fee not to exceed twenty-five dollars (\$25).
- (g) For each annual renewal of a salesman's license, a fee not to exceed twenty-five dollars (\$25).
- (h) For each additional office or place of business, an annual fee not to exceed twenty-five dollars (\$25).
- (i) For each change of place of business or change of employer or contractual associate, a fee not to exceed twenty-five dollars (\$25).
- (j) For each duplicate license, where the original license is lost or destroyed and affidavit is made, a fee not to exceed ten dollars (\$10).
- (k) For each duplicate pocket card, where the original pocket card is lost or destroyed and affidavit is made, a fee not to exceed ten dollars (\$10).

(2) The *board* shall adopt a schedule of fees within the limits set by this section. However, a fee once set for one of the items for which a fee is charged cannot be increased or decreased until at least one (1) year has passed since the fee for that particular item was last increased or decreased.

(3) *Annual fees are due and payable for the ensuing year during the month of December of each year. Failure to remit annual fees before January 1 automatically cancels the license, but otherwise the license remains in effect continuously from the date of issuance, unless suspended or revoked by the board for just cause.*"

Section 186. Section 66-1935, R.C.M. 1947, is amended to read as follows:

"66-1935. Requirements for office — employment of salesmen — issuance and display of license. (1) A resident licensed broker shall maintain a fixed office in this state. The original license of the broker and the original license of each salesman in the employ of or under contract with the broker shall be prominently displayed in the office. The address of the office and a branch office shall be designated on the broker's license. In case of removal from the designated address, the licensee shall notify the department before removal or within ten (10) days thereafter, designating the new location of this office, and paying the required fee, whereupon a license for the new location for the unexpired period shall be issued.

(2) A salesman may not be employed by, or under contract to, more than one (1) licensed broker nor may he perform services for a broker other than the one designated on the license issued to the salesman. When a licensed salesman desires to change his employment or contractual relationship from one licensed broker to another, he shall notify the department promptly in writing of these facts, pay the required fee, and return his license and pocket card, and a new license and pocket card shall be issued. No salesman shall directly or indirectly work for or with a broker until he has been issued a license to work for or with that broker. On termination of a salesman's employment or contractual relationship he shall surrender his license and pocket card to his broker, who shall return them to the department for cancellation.

(3) Only one (1) license shall be issued to a salesman to be in effect at one time."

Section 187. Section 66-1936, R.C.M. 1947, is amended to read as follows:

"66-1936. Transactions with nonresidents and with nonlicensed brokers or salesmen — consent to legal process. (1) It is unlawful for a licensed broker to employ or compensate directly or indirectly a person for performing the acts regulated by this act who is not a licensed broker or licensed salesman. However, a licensed broker may pay a commission to a licensed broker of another state if the nonresident broker has not conducted and does not conduct in this state a service for which a fee, compensation, or commission is paid. This subsection does not limit the next subsection.

(2) A nonresident of this state, who is actively engaged in the real estate business, who maintains a place of business in another state, and who has been licensed in the other state to conduct this business in that state, may obtain a license as a broker in this state by complying with this act. However, this section applies only to those brokers of other states

which offer the same privileges to the licensed brokers of this state. The nonresident licensee need not maintain a place of business in this state. The board may authorize the department to license a nonresident broker without examination, if he files with the department an authorized or certified copy of the license issued to the nonresident for conducting this business in another state, and by paying to the department the same license fee as is required for obtaining a broker's license in this state. The board may, in its discretion, refuse to authorize the department to issue a broker's license to an applicant who is not a resident of this state.

(3) A nonresident broker shall file an irrevocable written consent that legal actions arising out of a commenced or completed transaction may be commenced against the nonresident broker in a county of this state which may be appropriate and designated by section 93-2904; and the consent shall provide that service of summons in this action may be served on the department, for and on behalf of the nonresident broker, and this service is sufficient to give the court jurisdiction over the nonresident broker and his salesman or agent conducting a transaction in a county. The consent shall be acknowledged, and if made by a corporation, shall be authenticated by its seal."

Section 188. Section 66-1937, R.C.M. 1947, is amended to read as follows:

"66-1937. Grounds for refusal — suspension or revocation of license. The board may, on its own motion, and shall, on the sworn complaint in writing of a person, investigate the actions of a real estate broker or a real estate salesman, subject to sections 82A-1603 and 82A-1604, and may revoke or suspend a license issued under this act when the broker or salesman has been found guilty by a majority of the board of any of the following practices:

(1) Intentionally misleading, untruthful, or inaccurate advertising, whether printed or by radio, display, or other nature, which advertising in any material particular or in any material way misrepresents any property, terms, values, policies, or services of the business conducted;

(2) Making any false promises of a character likely to influence, persuade, or induce;

(3) Pursuing a continued and flagrant course of misrepresentation, or making false promises through agents or salesmen, or any medium of advertising, or otherwise;

(4) Use of the term "realtor" by a person not authorized to do so, or using another trade name or insignia of membership in a real estate organization of which the licensee is not a member;

(5) Failing to account for or to remit money coming into his possession belonging to others;

(6) Accepting, giving, or charging an undisclosed commission, rebate, or profit on expenditures made for a principal;

(7) Acting in a dual capacity of broker and undisclosed principal in a transaction;

(8) Guaranteeing, authorizing, or permitting a person to guarantee future profits which may result from the resale of real property;

(9) Offering real property for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent;

(10) Inducing a party to a contract of sale or lease to break *the* contract for the purpose of substituting a new contract with another principal;

(11) Accepting employment or compensation for appraising real property contingent *on* the reporting of a predetermined value or issuing an appraisal report on real property in which he has an undisclosed interest;

(12) Negotiating a sale, exchange, or lease of real property directly with an owner or lessee if he knows that *the* owner has a written outstanding contract in connection with *the* property, granting an exclusive agency to another broker;

(13) Soliciting, selling, or offering for sale real property by conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Representing or attempting to represent a real estate broker, other than the employer, without the express knowledge or consent of the employer;

(15) Failing voluntarily to furnish a copy of a written instrument to a party executing *it* at the time of its execution;

(16) Paying a commission in connection with a real estate sale or transaction to a person who is not licensed as a real estate broker or real estate salesman under this act;

(17) Intentionally violating a rule *adopted* by the *board* in the interests of the public and in *conformity* with this act;

(18) Failing, if a salesman, to place, as soon after receipt as is practicably possible, in the custody of his registered broker, deposit money or other money entrusted to him as salesman by a person;

(19) Demonstrating his unworthiness or incompetency to act as a broker or salesman; or

(20) Conviction of a felony."

Section 189. Section 66-1938.1, R.C.M. 1947, is amended to read as follows:

"66-1938.1. **Hearings — procedure.** (1) When the *board* has investigated an application for a real estate broker's or salesman's license or, *subject to sections 82A-1603 and 82A-1604*, investigated the actions of a real estate broker or salesman *on* the sworn complaint in writing of a person, or *on* its own motion, and *the* investigation *has* revealed reasonable grounds for denying *the* application, or reasonable indication of a violation of this act as cause for revoking or suspending a license issued to a real estate broker or salesman, the *board* shall, before denying the application or revoking or suspending the license, *give notice and set the matter for hearing.*"

Section 190. Section 66-1943, R.C.M. 1947, is amended to read as follows:

"66-1943. **Real estate meetings and clinics open to all licensees.** (1) *The board may, subject to section 82A-1603*, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in *this* connection.

(2) *The board may* assist libraries and educational institutions in sponsoring studies and programs for the purpose of raising the standards of the real estate business and the competency of licensees."

Section 191. Section 66-1944, R.C.M. 1947, is amended to read as follows:

"66-1944. **Attorney for board.** The attorney general shall act as attorney for the *board* in actions and proceedings brought by or against it under this act. *Fees* and expenses of the attorney general acting in *this* capacity shall be paid out of *board* moneys in the earmarked revenue fund."

Section 192. Section 66-1945, R.C.M. 1947, is amended to read as follows:

"66-1945. **Publication of directory.** The *department* shall annually publish a directory of licensees, including a list of licenses suspended and revoked, which shall contain such other data the *board determines* to be in the interest of real estate licensees and the public."

Section 193. There is a new section to be numbered 66-2101.1, R.C.M. 1947, which reads as follows:

66-2101.1. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Board" means the board of abstracters, provided for in section 82A-1602.1; and

(2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

(3) "Registered abstractor" means a person who has obtained a certificate of registration by the board under this act.

Section 194. Section 66-2102, R.C.M. 1947, is renumbered 82A-1602.1, and is amended to read as follows:

"82A-1602.1. **Board of abstracters — appointment — qualifications — term.** (1) *There is a board of abstracters.*

(2) *The board consists of three (3) members appointed by the governor. Each member shall be a registered abstractor during his term. Members shall be from different counties.*

(3) *Each member shall serve for a term of three (3) years."*

Section 195. Section 66-2103, R.C.M. 1947, is amended to read as follows:

"66-2103. **Organization of board.** *The board shall elect a chairman and a secretary. The board may compel the attendance of witnesses, and the chairman and secretary may administer oaths. The board may make rules necessary for the administration of this act.*"

Section 196. Section 66-2104, R.C.M. 1947, is amended to read as follows:

"66-2104. **Compensation of members of board — disposition of funds.** (1) Each member of the board shall receive a compensation of five dollars (\$5) per day for actual services while attending meetings or otherwise engaged in business connected with the board, and shall receive ten cents (\$.10) per mile for each mile actually traveled, and five dollars (\$5) per day for expenses while absent from home on business connected with the board.

(2) Money received under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 197. Section 66-2105, R.C.M. 1947, is amended to read as follows:

"66-2105. **Records of board.** *The department shall keep a register of the names of applicants for registration, and for certificates of authority, with their place of business and other information the board considers appropriate, including the action taken by the board, and the dates on which certificates of registration and certificates of authority are issued.*"

Section 198. Section 66-2108, R.C.M. 1947, is amended to read as follows:

"66-2108. **Examination of applicants.** A person desiring to obtain a certificate of registration under this act shall make application to the department and shall pay to the department an examination fee of twenty-five dollars (\$25). The application shall be on a form prescribed by the board and shall contain information desired by the board. The board shall fix a date and place for the examination of the applicant, of which notice shall be given the applicant by mail, who shall present himself at the examination. The department, subject to section 82A-1603, shall examine the applicant under the rules adopted by the board."

Section 199. Section 66-2110, R.C.M. 1947, is amended to read as follows:

"66-2110. **Certificate of registration — contents and issuance — temporary certificates.** (1) The certificate of registration issued by the department shall recite, among other things, that the holder has complied with this act, and entitles the holder to take charge of an abstract office holding a certificate of authority under this act.

(2) Certificates of registration shall be issued on the payment of a five dollar (\$5) fee and are valid for one (1) year from the date of issuance and shall be renewed annually by the department on application within thirty (30) days prior to expiration and on payment of one dollar (\$1) to the department. The board may authorize the department to issue temporary certificates of registration between meetings of the board."

Section 200. Section 66-2111, R.C.M. 1947, is amended to read as follows:

"66-2111. **Certificate of authority — contents and issuance.** (1) A person, firm, or corporation desiring to obtain a certificate of authority under this act shall make application to the department and shall pay to the department an application fee of five dollars (\$5). The application shall be on a form prescribed by the board and shall contain information desired by it.

(2) A person, firm, or corporation, who furnishes satisfactory proof to the board that the applicant has for use in the business a set of abstract books or other system of indices and has in charge of the business a registered abstractor, and who furnishes the bond, or other securities, and pays the application fee is entitled, on compliance with this law, to receive a certificate of authority.

(3) Certificates of authority are valid for one (1) year from the date of issuance and shall be renewed by the department on application within thirty (30) days prior to expiration and on payment of five dollars (\$5) to the department. The application shall be accompanied by an affidavit and such other evidence considered necessary, showing that the applicant has complied with this act.

(4) The certificate of authority issued by the department shall, among other things, recite that the bond or other securities have been filed and approved, and the certificate authorizes the person, firm, or corporation, named in it, to engage in and carry on the business of an abstractor of real estate titles in the county or counties of this state, in which the person, firm, or corporation has for use a set of abstract books or system of indices provided for in section 66-2101, and for that purpose to have access to the public records in an office of a city, county, or of the state during office hours, and to make memoranda or notation therefrom as may be necessary for the purpose of making abstracts, and the compiling, posting, copying, and keeping up of their abstract books, indices, or records, access to be during ordinary office hours."

Section 201. Section 66-2113, R.C.M. 1947, is amended to read as follows:

"66-2113. **Bond or other securities required.** (1) Before a certificate of authority may be issued, the applicant shall file with the department a bond to be approved by the board, running to the state of Montana, in the penal sum of five thousand dollars (\$5,000), for the use of an owner, mortgagee, or other person having an actual interest in the real estate covered by an abstract of title, or a title insurance company licensed and authorized to do business in this state, who may be aggrieved. The bond or undertaking is for the payment by the abstractor of damages that may be sustained by or may accrue to a person or company by reason of or on account of an error, deficiency, or mistake in an abstract or certificate of title, or a continuation thereof, made or issued by the abstractor. The bond shall be written by a surety or other company issuing bonds and licensed and authorized to do business in this state. No personal bonds may be accepted. The bond or undertaking shall be in effect for a period

of one (1) year, and may be renewed annually by a continuation certificate; however, *the continuation certificate may not increase the amount of liability under the original bond. No person, firm, or corporation is required to have in effect with the department, valid bonds in excess of the penal sum of five thousand dollars (\$5,000).*

(2) *Instead of the bond the applicant may deposit with the state treasurer public bonds or other securities as the board prescribes, approves, and considers sufficient to insure the payment of the penal sum of five thousand dollars (\$5,000). The securities deposited may be exchanged, with the approval of the board, for other securities. The party depositing the securities shall receive the interest and dividends on the securities deposited. The securities shall be subject to sale and transfer and to the disposal of the proceeds by the board only on the order of a court of competent jurisdiction, and for the benefit of persons aggrieved as in this section provided. The state treasurer shall give his receipt for the securities, and the state is responsible for their custody and safe return."*

Section 202. Section 66-2114, R.C.M. 1947, is amended to read as follows:

"66-2114. **Seal.** A person, firm, or corporation furnishing abstracts of title to real property under *this act* shall provide a seal, which shall have stamped on it the name and location of the person, firm, or corporation; and shall deposit with the *department* an impression of the seal and the names of persons authorized to sign certificates to abstracts before the certificate of authority *may be issued*. The seal shall be affixed to every abstract or certificate of title issued by the person, firm, or corporation, and to every continuation thereof."

Section 203. Section 66-2115, R.C.M. 1947, is amended to read as follows:

"66-2115. **Regulation of abstracters — violations.** (1) The board *may* cancel and revoke a certificate of registration issued to a person under this act for a violation of this act, or on a conviction of the holder of the certificate of a crime involving moral turpitude, or if the board finds the holder to be guilty of habitual carelessness or inattention to business or of fraudulent practices. The board *may* also cancel and revoke a certificate of authority issued to a person, firm, or corporation under this act for failure to furnish the bond or other securities required by section 66-2113, or new or additional bonds the board *considers* necessary, or for failure to maintain indices and abstract records, or for failure to have in charge of the business a registered abstracter, or for violation of this act.

(2) *On a verified complaint being filed with the department charging the holder of a certificate of registration with a violation of any of the provisions of subsection (1) of this section the board shall require the holder of the certificate to appear before it on a day fixed by the board, to show cause why the certificate should not be canceled."*

Section 204. Section 66-2201, R.C.M. 1947, is renumbered 82A-1602.24, and is amended to read as follows:

"82A-1602.24. **Board of veterinarians — appointment — qualifications — term — removal.** (1) There is a board of veterinarians.

(2) *The board consists of five (5) members appointed by the governor. The Montana state veterinary medical association shall, at each annual meeting, nominate twice the number of board members to be appointed that year. The names of these nominees shall be annually transmitted, under seal, to the governor before July 1. The governor shall, before August 1, appoint from this list the board members to fill the vacancies that will occur July 31. If no nominee has the required qualifications to be on the board, the governor may appoint any licensed and registered veterinarian.*

(3) *Each member shall be a reputable licensed veterinarian who has graduated from a college authorized by law to confer degrees, and have educational standards equal to those approved by the American veterinary medical association. Each member shall have actually and legally practiced veterinary medicine in either private practice or public service in this state for at least five (5) years immediately before his appointment.*

(4) *Each member shall serve for a term of five (5) years. The governor may, after notice and hearing, remove a member for misconduct, incapacity, or neglect of duty."*

Section 205. There is a new section to be numbered 66-2201.1, R.C.M. 1947, which reads as follows:

66-2201.1. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Board" means the board of veterinarians, provided for in section 82A-1602.24; and

(2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 206. Section 66-2202, R.C.M. 1947, is amended to read as follows:

"66-2202. **Organization of board — quorum — powers.** (1) A board member shall receive a certificate of appointment from the governor.

(2) The board shall annually elect from its members a president, vice-president, and secretary-treasurer, and shall hold at least two (2) regular meetings each year. At a meeting three (3) members of the board constitute a quorum. If a member of the board, without cause, *absents* himself from two (2) of its regular meetings consecutively, his office is vacant.

(3) The board *may* adopt rules and orders necessary for the performance of its duties; prescribe forms for application for examination and license; prepare examinations and the department shall, subject to section 82A-1603, supervise the examination of applicants for license to practice veterinary medicine; obtain the services of professional examination agencies instead of its own preparation of examinations; and grant and revoke licenses.

(4) *The department may employ attorneys, subject to the approval of the attorney general, to assist county attorneys in prosecutions brought*

under this chapter in the respective district courts of the state or to assist the attorney general in representing the board before the supreme court."

Section 207. Section 66-2203, R.C.M. 1947, is amended to read as follows:

"66-2203. **Expenses and funds — records and reports.** (1) Each member of the board is entitled to receive necessary traveling and subsistence expenses.

(2) The department shall keep complete records of the board's proceedings and of its receipts and disbursements and a full and accurate list of persons licensed and registered by the board. These records are public records, and are at all times open to public inspection.

(3) Money received under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 208. Section 66-2204, R.C.M. 1947, is amended to read as follows:

"66-2204. **Applications for license to practice — examinations — fees.** (1) A citizen of the United States desiring to begin the practice of veterinary medicine or veterinary surgery in this state, or who desires to hold himself out to the public as a practitioner of veterinary medicine or veterinary surgery, except as provided in section 66-2211, shall make application to the department for a license to do so. The application shall be on a form furnished by the department, and shall be accompanied by satisfactory evidence of the good moral character of the applicant, and shall present evidence of his having graduated in and received a degree from a legally authorized veterinary medical school having educational standards equal to those approved by the American veterinary medical association. On application, a photostatic copy of the diploma of the applicant shall be submitted to the department for inspection and verification. The photostatic copy remains the property of the department. A person applying for a license to practice shall pay to the department a fee of twenty-five dollars (\$25), which may not be refunded. Subject to section 82A-1603, the board shall, by means of examination, either oral, written or practical, or a combination of oral, written or practical as the board determines, ascertain the professional qualifications for license of applicants under this act. An investigation under reciprocity arrangements may replace examination for licensees from other states under section 66-2208. The department shall issue a license to all who are found to be, in the judgment of the board, competent to practice. A license may not be issued to a person who is not found by the examination or investigation to be competent.

(2) The examination shall be held in January and June of each year at a time and place specified by the board. The examination shall cover theory and practice, pharmacology and therapeutics, animal sanitation, surgery, communicable diseases, and other subjects, chosen by the board, which are ordinarily included in the curriculum of a school of veterinary medicine recognized and approved by the American veterinary medical association.

(3) The department shall consecutively number applications received and note on each the disposition made of it and preserve them for reference, and shall number consecutively licenses issued.

(4) Applicants must achieve a grade of seventy percent (70%) in all subjects in order to obtain a license. An applicant who has failed an examination may apply to be re-examined at a subsequent examination, and shall pay another application fee in the amount of twenty-five dollars (\$25), and shall take another complete examination in all subjects.

(5) An applicant for examination may, in the discretion of the board, be given a temporary permit to practice veterinary medicine prior to taking the examination, if the applicant is employed by and working under the supervision of and in the same office with a veterinarian licensed under this act. The temporary permit is valid only until the date of the next examination. Under no circumstances may a second temporary permit be issued to the same person. A temporary permit may not be issued to a person who has failed an examination given under this section."

Section 209. Section 66-2207, R.C.M. 1947, is amended to read as follows:

"66-2207. **Issuance, registration and reinstatement of licenses.** (1) The board shall, at the conclusion of a regular examination or after investigation under the reciprocity arrangements of section 66-2208, if in its judgment the applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

(2) Every license granted shall be issued under seal, and shall be signed by the president and secretary-treasurer of the board, and shall state that the licensee has given satisfactory evidence of fitness as to age, character, veterinary medical education, and other matters required by law, and that after full examination or investigation under reciprocity arrangements he has been found qualified to practice.

(3) A person licensed to practice veterinary medicine in this state shall procure from the department before July 1, annually, his certificate of registration. The certificate shall be issued by the department on the payment of a fee to be fixed annually by the board, not exceeding the sum of ten dollars (\$10). The certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state during the time for which it is issued. Failure of a person licensed to procure a certificate of registration before July 1 annually constitutes a forfeiture of the license held by the person. A person who has thus forfeited his license may have it restored to him by making written application for restoration within one (1) year of the forfeiture setting forth the reasons for failure to procure the certificate of registration at the time specified and accompanied by payment of the registration fee provided for in this section and an additional restoration fee not in excess of ten dollars (\$10) as the board requires. The person making application for restoration of license within one (1) year of its forfeiture is not required to submit to examination.

(4) Notwithstanding any other provisions in this chapter, a person

licensed who enters, or is called to active duty by, a branch of the armed services of the United States is entitled to receive automatic registration of his license during the period of his duty with the armed services. *However*, within one (1) year after release or discharge from duty in the armed services he shall procure a certificate of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within one (1) year after release or discharge is the equivalent of a failure to procure a certificate of registration before July 1 of any year, and the same forfeiture and restoration requirements apply.

(5) A person licensed shall at all times have his residence and office address on file with the department."

Section 210. Section 66-2208, R.C.M. 1947, is amended to read as follows:

"66-2208. Display of license and certificate — arrangement with other boards. (1) A person may not practice veterinary medicine in this state without possessing and displaying prominently in his principal office a license and a current and valid certificate of registration issued under this act.

(2) The board may make arrangement with similar boards in the several states insofar as practicable, whereby due credit for state and territorial licenses may be allowed in this state to the licensees of these boards who desire to secure a license to practice veterinary medicine in this state, and by which licensees of the board in this state may secure credit for license issued by this board, when the licensees desire to secure a license to practice another state or territory. No arrangement may be made under this section which may lower the standard of practice of veterinary medicine in this state. The board may, if necessary, require an examination of applicants for a license from other states after a careful consideration of the credentials from these states. The board shall establish methods and procedures for investigation of applicants for a license by reciprocity. No license may be issued as a result of reciprocity between the states to an applicant unless he has been lawfully and continuously in practice as a licensed veterinarian for at least one (1) year in the state from which he applies immediately preceding the date of his application for a license to practice in this state."

Section 211. Section 66-2209, R.C.M. 1947, is amended to read as follows:

"66-2209. Veterinary medicine defined. (1) A person is considered practicing veterinary medicine when he does any of the following:

(a) Represents himself as or is engaged in the practice of veterinary medicine in any of its branches either directly or indirectly.

(b) Uses words, titles, or letters in this connection or on a display or advertisement or under circumstances so as to induce the belief the person using them is engaged in the practice of veterinary medicine. This use is prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine in any of its branches.

(c) Diagnoses, prescribes, or administers a drug, medicine, appliance,

application, or treatment of whatever nature, or performs a surgical operation or manipulation, for the prevention, cure, or relief of a pain, deformity, wound, fracture, bodily injury, physical condition, or disease of animals.

(d) Instructs, demonstrates, or solicits, by a notice, sign, or other indication, with contract either express or implied, or otherwise, with or without the necessary instruments for the administration of biologics or medicines or animal disease cures for the prevention and treatment of disease of animals and remedies for the treatment of internal parasites in animals.

(e) Performs a manual or laboratory procedure for the diagnosis of pregnancy, sterility, or infertility on livestock for remuneration or hire.

(2) A person may not practice veterinary medicine or veterinary surgery in this state unless licensed, and registered as required by this chapter; nor may a person practice veterinary medicine or surgery whose authority to practice is suspended or revoked by the board."

Section 212. Section 66-2210, R.C.M. 1947, is amended to read as follows:

"66-2210. Refusal, suspension, and revocation of license and certificate. (1) The board may either refuse to grant a license or refuse to grant a certificate of registration or suspend or revoke a license and certificate of registration on any of the following grounds:

(a) Fraud or deception in procuring the license.

(b) The publication or use of an untruthful or improper statement, or representation with the view of deceiving the public, or a client or customer in connection with the practice of veterinary medicine.

(c) The conviction of a felony as shown by a certified copy of the record of the court of conviction.

(d) Habitual intemperance in the use of intoxicating liquors, or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs, or conviction of a violation of a federal or state law relating to narcotic drugs.

(e) Immoral, unprofessional, or dishonorable conduct manifestly disqualifying the licensee from practicing veterinary medicine.

(f) Gross malpractice, including failure to furnish to the board, on written application by it, a report or information relating thereto.

(g) The employment of unlicensed persons to perform work which under this chapter can lawfully be done only by persons licensed to practice veterinary medicine.

(h) Fraud or dishonest conduct in applying or reporting diagnostic biological tests or in issuing health certificates.

(i) Failure to keep one's premises in a clean and sanitary condition.

(j) Violation of this act or of the rules or orders of the board.

(k) Revocation by proper authorities for any of the above reasons of a license issued by *another* state.

(2) The board may neither refuse to issue a license or certificate of registration nor suspend or revoke a license and certificate of registration for any cause, unless the person accused has been given notice and a public hearing by the board."

Section 213. Section 66-2211, R.C.M. 1947, is amended to read as follows:

"66-2211. **Interpretation of statute — persons not embraced within provisions.** This chapter does not apply to:

(1) Veterinarians in the performance of their official duties, either civil or military, in the service of the United States, unless they engage in the practice of veterinary medicine in a private capacity.

(2) Laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of *this* state, or *the* United States, and engaged in labors in laboratories under the direct supervision of the *board* of livestock, Montana state *university* or the United States.

(3) Lawfully qualified veterinarians from other states or a foreign country meeting legally licensed and registered Montana veterinarians in this state in consultation.

(4) A veterinarian residing on a border of a neighboring state and authorized under the laws thereof to practice veterinary medicine therein, who is actually called to attend cases in this state, but who does not open an office or appoint a place to meet patients or receive calls *in* this state, *if* veterinarians licensed and registered in this state are extended a like privilege to engage in the practice of veterinary medicine to the same extent in the neighboring state.

(5) The employment of veterinary medical students who have successfully completed three (3) years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association and authorized by law to confer degrees as assistants to veterinarians licensed and registered *under* this chapter. *However, this employment may not be contracted for or entered into except after written application for approval directed to the board and the written grant of approval by the board. This employment may not be for a period in excess of six (6) months from the date of completion of the third year of study.*

(6) The operations known and designated as spaying, castrating, or dehorning of *cattle, sheep, horses, swine and related species* are not the practice of veterinary medicine within the meaning of this chapter.

(7) *This chapter does not prohibit a person from treating his own farm animals or being assisted in this treatment by his employees regularly employed in the conduct of his business, or by other persons whose services are rendered gratuitously in case of emergency.*

(8) *This chapter does not prohibit the selling of veterinary remedies*

and instruments by a registered pharmacist at his regular place of business."

Section 214. Section 66-2326, R.C.M. 1947, is amended to read as follows:

"66-2326. **Definitions.** *Unless the context requires otherwise, in this act:*

(1) "*Engineer*" or "*professional engineer*" means a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering, as attested by his legal registration as a professional engineer.

(2) "*Engineer-in-training*" means a candidate for registration as a professional engineer who is a graduate in an engineering curriculum of four (4) years or more from a school or college approved as of satisfactory standing by the engineers' council for professional development or its successor as an agency evaluating professional engineering curricula, or equivalent curricula approved by the board, or who has had four (4) years or more of experience in engineering work of a character satisfactory to the board; and who, in addition, has successfully passed the examination in the fundamental engineering subjects *under* section 66-2338, and who *has* received a certificate stating that he has successfully passed this portion of the professional examinations.

(3) "*Practice of engineering*" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical, and engineering sciences to professional services or creative work *such* as consultation, investigation, evaluation, planning, engineering planning service performed in connection with city, county, regional, and state planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, and including architectural work incidental to the practice of engineering. *The term does not include the work ordinarily performed by persons who operate or maintain machinery, equipment, communication lines, signal circuits, electric power lines, or pipelines.*

(4) "*Land surveyor*" means a person who engages in the practice of land surveying.

(5) "*Practice of land surveying*" includes surveying of areas for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the plotting of lands and subdivisions.

(6) "*Board*" means the board of professional engineers and land surveyors, provided for in section 82A-1602.11.

(7) "*Department*" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 215. Section 66-2327, R.C.M. 1947, is renumbered 82A-1602.11, and is amended to read as follows:

"82A-1602.11. Board of professional engineers and land surveyors — appointment — qualifications — removal — term. (1) *There is a board of professional engineers and land surveyors.*

(2) *The board consists of seven (7) members appointed by the governor. The members are:*

(a) *Five (5) professional engineers who have been engaged in the practice of engineering for at least twelve (12) years, and who have been in responsible charge of important engineering work for at least five (5) years, or responsible charge of engineering teaching for at least five (5) years. No more than two (2) of these members may be from the same branch of engineering.*

(b) *Two (2) registered and practicing land surveyors.*

(3) *Each member shall be a citizen of the United States, and a resident of this state. Each newly appointed member shall have qualifications similar to the member whose term has expired. A member may not serve more than two (2) consecutive terms. (4) Each member shall serve for a term of five (5) years. The governor may remove a member for misconduct, incompetency, neglect of duty, or for any other sufficient cause."*

Section 216. Section 66-2333, R.C.M. 1947, is amended to read as follows:

"66-2333. Receipts and disbursements — assistants. The department shall collect all moneys under this act, and shall deposit these moneys in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 217. Section 66-2334, R.C.M. 1947, is amended to read as follows:

"66-2334. Records and reports — register. (1) The department shall keep a record of its proceedings and a register of the board's proceedings and a register of applicants for registration, which shall show (a) the name, age, and residence of each applicant; (b) the date of the application; (c) the place of business of the applicant; (d) his educational and other qualifications; (e) the branch or branches of engineering in which the applicant qualified; (f) whether an examination was required; (g) whether the applicant was rejected; (h) whether a certificate of registration was granted; (i) the date of the action of the board; and (j) other information considered necessary by the board.

(2) The records of the department are prima facie evidence of the proceedings of the board and a transcript thereof, certified by the department, is admissible in evidence as if the original were produced."

Section 218. Section 66-2335, R.C.M. 1947, is amended to read as follows:

"66-2335. Roster. A roster showing the names and places of business of registered professional engineers and registered land surveyors shall be published by the department during the month of April each year. Copies of this roster shall be mailed to each person registered, placed on

file with the secretary of state, the clerk of each incorporated city and town and in the office of each county clerk and recorder within the state, and furnished to the public on request."

Section 219. Section 66-2337, R.C.M. 1947, is amended to read as follows:

"66-2337. Application for registration — fees. (1) Applications for registration shall be on forms prescribed by the board and furnished by the department, shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical work, and shall contain not less than five (5) references, of whom three (3) or more shall be engineers or land surveyors having personal knowledge of his engineering or land surveying experience.

(2) The registration fee for professional engineers is thirty-five dollars (\$35), twenty dollars (\$20) of which shall accompany application, the remaining fifteen dollars (\$15) to be paid on issuance of a certificate. When a certificate of qualification issued by the national bureau of engineering registration is accepted as evidence of qualification, the total fee for registration as professional engineer is twenty dollars (\$20).

(3) The fee for engineer-in-training is twenty dollars (\$20), which shall accompany the application and shall include the cost of examination and issuance of a certificate. When certification as an engineer-in-training by another state, or a territory or possession of the United States or country, is accepted as evidence of qualification, the fee for engineer-in-training is five dollars (\$5). When registration as a professional engineer is completed by an engineer-in-training, an additional fee of fifteen dollars (\$15) shall be paid before issuance of a certificate as a professional engineer.

(4) The registration fee for land surveyors is thirty-five dollars (\$35), which shall accompany the application. The fee for registration as both a professional engineer and land surveyor is fifty dollars (\$50), thirty-five dollars (\$35) of which shall accompany the application, the remaining fifteen dollars (\$15) to be paid on issuance of a certificate.

(5) If the board denies issuance of a certificate of registration to any applicant the initial fee deposited shall be retained as an application fee."

Section 220. Section 66-2338, R.C.M. 1947, is amended to read as follows:

"66-2338. Examinations. (1) The board may require an applicant to take a written or oral examination which shall be held at a time and place the board determines. The board may require a registrant to take a written or oral examination, or both, in a proceeding to revoke, reprimand, suspend, or refuse to renew. When examinations are required on fundamental engineering subjects (such as are ordinarily given in college curricula), the applicant may take this part of the professional examination prior to his completion of the requisite years of experience in engineering work, and satisfactory passage of this portion of the professional examination by the applicant constitutes a credit for a period of ten (10) years. The department shall issue to each applicant successfully passing the examination in fundamental engineering subjects a certificate stating

that he has passed the examination and that his name has been recorded as an engineer-in-training.

(2) The scope of the examinations and the methods of procedure shall be prescribed by the board, but with special reference to the applicant's ability to design and supervise engineering works to ensure the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in engineering and in land surveying. A candidate failing on examination may apply for re-examination at the expiration of six (6) months and will be re-examined without payment of additional fee. Subsequent examinations will be granted on payment of a fee determined by the board."

Section 221. Section 66-2339, R.C.M. 1947, is amended to read as follows:

"66-2339. **Certificates of registration — seal.** (1) The department shall issue a certificate of registration, on payment of the registration fee to an applicant who, in the opinion of the board, has satisfactorily met the requirements of this act. In the case of a registered engineer, the certificate shall authorize the "practice of engineering." In the case of an engineer-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board and has been enrolled as an "engineer-in-training." In the case of a registered land surveyor, the certificate shall authorize the "practice of land surveying." Certificates of registration and certificates as engineer-in-training shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and secretary of the board under seal of the board.

(2) The issuance of a certificate of registration by the department is prima facie evidence that the person named is subject to the responsibilities and entitled to all the rights and privileges of a registered professional engineer or of a registered land surveyor, while the certificate remains unrevoked or unexpired.

(3) A registrant shall on registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "Registered Professional Engineer," or "Registered Land Surveyor." Plans, specifications, plats, and reports prepared by a registrant shall be stamped with the seal when filed with public authorities, during the life of the registrant's certificate. It is unlawful for anyone to stamp or seal documents with the seal after the certificate of the registrant named has expired or has been revoked, unless the certificate has been renewed or reissued."

Section 222. Section 66-2340, R.C.M. 1947, is amended to read as follows:

"66-2340. **Expiration and renewals — fee.** Certificates of registration expire on December 31 and become invalid on that date unless renewed. The department shall notify every person registered under this act, of the date of the expiration of his certificate and the amount of the fee required for its renewal for one (1) year. This notice shall be mailed at least one (1) month in advance of the date of the expiration of the certifi-

icate. Renewal may be made during the month of December by the payment of a fee of ten dollars (\$10) for either a professional engineer or land surveyor or both. Failure on the part of a registrant to renew his certificate annually in the month of December does not deprive him of the right of renewal; however, a registrant who fails to pay the renewal fee for two (2) consecutive years shall be considered a new applicant and is required to submit a new application."

Section 223. Section 66-2344, R.C.M. 1947, is amended to read as follows:

"66-2344. **Registration of persons registered by other states or authorities.** The department, subject to approval by the board, may, on application and payment of a fee of twenty dollars (\$20), issue a certificate of registration as a professional engineer to a person who holds a certificate of qualification or registration issued to him by the national bureau of engineering registration, or of a state, territory, or possession of the United States, or of a country, if the applicant's qualifications meet the requirements of this act and the rules of the board."

Section 224. Section 66-2345, R.C.M. 1947, is amended to read as follows:

"66-2345. **Revocation of registration — hearings — reissuance of certificate.** (1) The board may revoke, reprimand, suspend, or refuse to renew the certificate of a registrant found guilty of:

- (a) Fraud or deceit in obtaining a certificate of registration;
- (b) Gross negligence, incompetency, or misconduct in the practice of engineering or land surveying as a registered professional engineer or land surveyor;
- (c) A felony; or
- (d) Failure of a land surveyor to comply with the Corner Recordation Act.

(2) Any person may make charges of fraud, deceit, gross negligence, incompetency, or misconduct against a registrant. The charges shall be made by affidavit, and subscribed and sworn to by the person making them, and filed with the department.

(3) Charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three (3) months after the date on which they were made.

(4) If, after hearing, four (4) or more members of the board vote in favor of sustaining the charges, the board shall reprimand, suspend, refuse to renew, or revoke the certificate of registration of the registered professional engineer or land surveyor.

(5) The board, for reasons it considers sufficient, may reissue a certificate of registration to a person whose certificate has been revoked, if four (4) or more members of the board vote in favor of the reissuance. A new certificate of registration, to replace a certificate revoked, lost, destroyed, or mutilated, may be issued by the department, subject to the

rules of the board, and a charge of three dollars (\$3) shall be made for the issuance."

Section 225. Section 66-2346, R.C.M. 1947, is amended to read as follows:

"66-2346. **Violations — penalties — enforcement.** (1) A person who practices or offers to practice engineering or land surveying in this state without being registered under this act, or a person presenting or attempting to use as his own the certificate of registration or the seal of another, or a person who gives false or forged evidence to the board or department in obtaining a certificate of registration, or a person who falsely impersonates another registrant, or a person who attempts to use an expired or revoked certificate of registration, or a person who violates this act, is guilty of a misdemeanor, and shall, on conviction, be fined not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), or imprisoned for a period not exceeding three (3) months, or both.

(2) All officers of the law of this state, or a political subdivision thereof, shall enforce this act and prosecute persons violating it. The attorney general shall act as legal adviser of the board and render legal assistance necessary in carrying out this chapter."

Section 226. Section 66-2347, R.C.M. 1947, is amended to read as follows:

"66-2347. **Practices to which act inapplicable.** This act does not prevent or affect:

- (1) The practice of any other legally recognized professions or trades;
- (2) The mere execution of work by a contractor, as distinguished from its planning or design or the supervision of the construction of work as a foreman or superintendent;
- (3) The practice of a person not a resident of and having no established place of business in this state, practicing or offering to practice in this state the profession of engineering, when the practice does not exceed in the aggregate more than thirty (30) days in a calendar year; if the person is legally qualified by registration to practice the profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act;
- (4) The practice of a person not a resident of and having no established place of business in this state, or who has recently become a resident, practicing or offering to practice engineering or land surveying in this state for more than thirty (30) days in a calendar year, if he has filed with the department an application for a certificate of registration and has paid the fee required by this act, and if the person is legally qualified by registration to practice engineering or land surveying in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act. This practice may continue only for the time the board requires for the consideration of the application for registration;
- (5) The performance of professional engineering functions or work by

a person who is an employee or acts under the supervision and direction of a professional engineer, if the person is not in responsible charge of engineering work;

(6) The practice of professional engineering by licensed architects where the practice is purely incidental to their practice of architecture;

(7) The practice of officers and employees of the federal government while engaged in this state in the practice of engineering or land surveying, for the government; or

(8) The practice of professional engineering or land surveying in this state by a firm, copartnership, corporation, or joint stock association, or by its members, officers, or employees on its behalf, if each person in responsible charge of activities of the firm, copartnership, corporation, or joint stock association which constitutes the practice is a professional engineer or land surveyor holding a certificate of registration under this act."

Section 227. There is a new section to be numbered 66-2401.1, R.C.M. 1947, which reads as follows:

66-2401.1. **Definitions.** Unless the context requires otherwise, in this act:

- (1) "Board" means the board of plumbers, provided for in section 82A-1602.22; and
- (2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 228. Section 66-2402, R.C.M. 1947, is amended to read as follows:

"66-2402. **Application for state license — qualifications of licensees.** (1) A person desiring to work at the business of plumbing in a city or town shall file his application for a license with the department, and shall at the time and place designated by the board, be examined as to his qualifications for working in this business.

(2) The following requirements shall be met by applicants for a license:

- (a) For journeyman plumbers:
 - (i) A specific record of five (5) years experience in the field of plumbing, of a character satisfactory to the board. This experience requirement may be fulfilled by working five (5) years in a major phase of the plumbing business, or by completing an apprenticeship program meeting the standards set by the department of labor and industry or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending trade or other schools specializing in training of value in the plumbing business and approved by the board.
 - (ii) Satisfactory completion of an examination conducted by the department, subject to section 82A-1603(4), testing the applicant's general

knowledge of subjects necessary to plumbing, testing his knowledge of techniques and methods employed in the plumbing business, and establishing by practical demonstration his competence in the special skills required in plumbing.

(b) For master plumbers:

(i) Evidence of five (5) years experience as a journeyman plumber.

(ii) Evidence of three (3) years experience in supervisory capacities in the plumbing business.

(iii) Satisfactory completion of an examination for master plumbers testing his knowledge of the plumbing business and demonstrating his familiarity with business practices normally encountered in the plumbing business."

Section 229. Section 66-2403, R.C.M. 1947, is amended to read as follows:

"66-2403. **Compensation — examination of applicants.** (1) A member of the board is entitled to a compensation of twenty dollars (\$20) per diem for each day while actually engaged in the work of the board.

(2) An applicant for a license to work at the business of plumbing shall be examined as to his qualifications by the department, subject to section 82A-1603(4). The department shall examine each applicant for a license, to determine his qualifications and fitness for carrying on the business of a master plumber or journeyman plumber, and if the applicant successfully passes the examination prescribed by the board, then a license shall be issued to the applicant authorizing him to engage in the business and occupation of a master plumber or journeyman plumber, as the case may be. The license, when issued, authorizes the holder to carry on the business of a master plumber or a journeyman plumber, as the case may be, in any city or town in this state."

Section 230. Section 66-2404, R.C.M. 1947, is amended to read as follows:

"66-2404. **Application for license — information required — firms or corporations.** A person, firm, or corporation desiring to engage in or work in the business of plumbing, either as a master plumber or as a journeyman plumber, in this state, shall apply to the department by filing a written application stating his place of residence, age, experience, and the place where he has acquired his experience, and shall at a time and place designated by the board be examined as to his qualifications for the license. In the case of a firm or corporation, the examination and issuing of a license to one (1) member of the firm, or to the manager of the corporation, satisfies the requirements of this act as to master plumbers, but not as to journeymen plumbers. A person may not do the work of a master plumber unless licensed under this act."

Section 231. Section 66-2405, R.C.M. 1947, is amended to read as follows:

"66-2405. **Examination fee — expiration of license — annual**

renewal — fees — bond required of master plumbers. No applicant for a master plumber's license may submit to the examinations prescribed by the board until he has deposited with the department fifty dollars (\$50) as an examination fee, and no applicant for a journeyman plumber's license may submit to the examination prescribed by the board until he has deposited with the department twenty-five dollars (\$25) as an examination fee. A license when issued expires one (1) year from the date of issuance. A license issued to a master plumber or a journeyman plumber may be renewed annually, without examination, at any time prior to its expiration, by a written request for its renewal, directed to the department, and the payment of twenty-five dollars (\$25) for a renewal of a master plumber's license, and ten dollars (\$10) for a journeyman plumber's license, and renewal is also for the period of one (1) year. No master plumber's license may be issued or renewed unless the applicant has deposited with the department a good and sufficient bond to be approved by the board, or cash in the amount of five thousand dollars (\$5,000) to insure the faithful performance of his duties arising out of the state plumbing code or this chapter."

Section 232. Section 66-2406, R.C.M. 1947, is amended to read as follows:

"66-2406. **Apprentices — rules — record.** This act does not prohibit a person from working as an apprentice in the trade of plumbing with a plumber licensed by the department, and under the rules made by the board. The name and residence of each apprentice, and the names and residences of their employers, shall be filed with the department, and a record shall be kept by the department, showing the names and residences of these apprentices."

Section 233. Section 66-2407, R.C.M. 1947, is amended to read as follows:

"66-2407. **Disposition of license fees.** Money paid for license fees under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 234. Section 66-2409, R.C.M. 1947, is amended to read as follows:

"66-2409. **Quorum of board — rules.** (1) A majority of the board constitutes a quorum.

(2) The board may adopt rules necessary to carry out this act."

Section 235. Section 66-2414, R.C.M. 1947, is amended to read as follows:

"66-2414. **Rules of board — chairman.** The board shall adopt rules for the transaction of its business and the department shall keep a record of the board's official actions. It shall annually select a chairman from its members."

Section 236. Section 66-2416, R.C.M. 1947, is amended to read as follows:

"66-2416. **Minimum standards — state plumbing code — fee for copy of code.** (1) The board shall by rule prescribe minimum standards which are uniform and which are thereafter effective for all new plumbing installations. *The rules shall contain the minimum requirements for plumbing set forth in the American standard national plumbing code, numbered ASA A40.8-1955, and published by the American society of mechanical engineers. Except as provided in subsection (2) of this section, on approval of the department of health and environmental sciences and the attorney general, and publication, the rules become the state plumbing code and have the force of law. A copy of the code shall be supplied to each person licensed under sections 66-2401 through 66-2411, or any other interested person, for a fee of no more than five dollars (\$5).*

(2) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the department of administration and filing with the secretary of state."

Section 237. Section 66-2417, R.C.M. 1947, is amended to read as follows:

"66-2417. **District court — jurisdiction — restraining orders.** The district court of any county has jurisdiction in equity, on application of the board or the department of health and environmental sciences, to enforce this act and to restrain from connection any new plumbing installations, on finding, after hearing, that the plumbing is inferior to the standards of the state plumbing code."

Section 238. Section 66-2420, R.C.M. 1947, is amended to read as follows:

"66-2420. **Revocation or suspension — initiation of proceedings — procedure.** Proceedings for the revocation or suspension of a plumber's license may be taken by the board on its motion, for matters in its knowledge, or may be taken on the information of another. *Accusations must be in writing, and verified by a party familiar with the facts charged. On receiving the accusation the board shall, if it considers the accusation sufficient, make an order setting it for hearing, and requiring the accused to appear and answer the charge or accusation at the hearing, in the county in which the alleged violation occurred.*"

Section 239. Section 66-2422, R.C.M. 1947, is amended to read as follows:

"66-2422. **Hearing on revocation or suspension of license — procedure.** If the accused does not appear the board may proceed and determine the accusation in his absence. If the accused confesses the accusation or refuses to answer the charge, or if on the hearing, the board finds the charge or accusation true, it may order either revoking the license of the accused or suspending it for a fixed period."

Section 240. Section 66-2427, R.C.M. 1947, is amended to read as follows:

"66-2427. **Fixture fee — definition — payment — penalty.** For the purpose of providing adequate inspection and enforcement of the state plumbing code there shall be collected a fixture fee of fifty cents (\$.50)

per fixture for every fixture installed under the direction of a master plumber. For this purpose, a fixture means a device connected by a water connection to a water system or by a trap to a sewer line. This fixture fee is payable before installation by the licensed master plumber responsible for installation of the fixture. It is payable to the department under rules adopted by the board. *The inspection and enforcement of the state plumbing code are assigned to the department. Installation of fixtures by a licensed master plumber without payment of the fee subjects the master plumber to a fine of one hundred dollars (\$100) for each offense or to forfeiture of his bond under section 66-2405.*"

Section 241. Section 66-2501, R.C.M. 1947, is amended to read as follows:

"66-2501. **Definitions.** *Unless the context requires otherwise, in this act:*

(1) "Physical therapy" means the treatment of a bodily or mental condition of a person by the use of the physical, chemical, and other properties of heat, light, water, electricity, massage, and therapeutic exercise including physical rehabilitation procedures. The use of roentgen rays and radium for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in the act.

(2) "Physical therapist" means a person who practices physical therapy.

(3) "Board" means the Montana state board of medical examiners, provided for in section 82A-1602.15.

(4) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 242. Section 66-2502, R.C.M. 1947, is amended to read as follows:

"66-2502. **Qualifications of applicants for license.** To be eligible for a license as a physical therapist an applicant must:

(1) Be of good moral character;

(2) Have been graduated from a school of physical therapy approved by the council of medical education and hospitals of the American Medical Association;

(3) Either (a) pass to the satisfaction of the board an examination to determine his fitness for practice as a physical therapist; or, (b) be entitled to a license without examination under section 66-2505 or 66-2506."

Section 243. Section 66-2503, R.C.M. 1947, is amended to read as follows:

"66-2503. **Application for examination — examination fee.** Unless entitled to a license under section 66-2505, a person who desires to be licensed as a physical therapist shall apply to the department, in writing,

on a *form* furnished by the *department*. He shall embody in that application evidence under oath, satisfactory to the board, of his possessing the qualifications preliminary to examination required by section 66-2502. He shall pay to the *department* at the time of filing his application a fee of twenty-five dollars (\$25) which shall be deposited in the earmarked revenue fund for the use of the board, *subject to section 82A-1603(6)*. Anyone failing to pass the required examination is entitled to a second examination within six (6) months without additional fee."

Section 244. Section 66-2505, R.C.M. 1947, is amended to read as follows:

"66-2505. **Applicants licensed in another state.** The board may, in its discretion, *authorize the department* to register as a physical therapist, without examination, on the payment of the required twenty-five dollar (\$25) fee, an applicant for license who is a physical therapist licensed under the laws of another state or territory, if the requirements for a license for physical therapist in the state or territory in which the applicant was licensed were at the date of his license substantially equal to the requirements in force in this state."

Section 245. Section 66-2506, R.C.M. 1947, is amended to read as follows:

"66-2506. **Examination of applicants — scope.** The *department* shall, *subject to section 82A-1603*, examine applicants for a license as physical therapists at times and places *the board determines*. The examinations shall embrace subjects the board *considers* necessary to determine the applicant's fitness."

Section 246. Section 66-2507, R.C.M. 1947, is amended to read as follows:

"66-2507. **Issuance of license — certificate as evidence.** The *department* shall license as a physical therapist each applicant who proves to the satisfaction of the board his fitness for a license under this act. *The department* shall issue to each person licensed a license certificate, which is *prima facie* evidence of the right of the person to whom it is issued to represent himself as a licensed physical therapist, subject to the conditions and limitations of *this act*."

Section 247. Section 66-2508, R.C.M. 1947, is amended to read as follows:

"66-2508. **Annual renewal of license.** A licensed physical therapist shall, during January, apply to the *department* for a *renewal* of his license and pay a fee of five dollars (\$5). A license that is not *renewed* before April, every year, automatically *lapses*. The board may in its discretion revive and *renew* a lapsed license on the payment of all past unpaid *renewal* fees."

Section 248. Section 66-2510, R.C.M. 1947, is amended to read as follows:

"66-2510. **Temporary licenses.** On payment to the *department* of a fee of ten dollars (\$10), and the submission of a written application on

forms provided by it, the *department* shall issue without examination a temporary license to practice physical therapy in this state for a period not to exceed one (1) year to a person who meets the qualifications set forth in section 66-2502, *on submission by the person* of evidence satisfactory to the board that he is in this state on a temporary basis to assist in a case of medical emergency or to engage in a special physical therapy project. *On the submission of a written application on forms provided by it, the department* shall also issue a temporary license to a person who has applied for a license under this act and who is, in the judgment of the board, eligible to take the examination provided for in section 66-2502. *This temporary license is available to an applicant only with respect to his first application for a license under section 66-2505 and the license expires when the board makes a final determination with respect to the application.*"

Section 249. Section 66-2514, R.C.M. 1947, is amended to read as follows:

"66-2514. **Rules adopted by board — records of proceedings and licensees.** (1) The board *may adopt* rules to carry this act into effect. (2) The *department* shall keep a record of *the board's* proceedings under this act and a register of persons licensed under it. The register shall show the name of every living licensed physical therapist, his last known place of business, last known place of residence, and the date and number of his license and certificate as a licensed physical therapist.

(3) The *department* shall, during the month of April every year in which the renewal of licenses is required, compile a list of licensed physical therapists authorized to practice physical therapy in the state and shall mail a copy of that list to *the* superintendent of every known hospital and every person licensed to practice medicine and surgery in the state. *An interested person in the state is entitled to obtain a copy of the list on application to the department, and payment of an amount not in excess of the cost of the list so furnished.*"

Section 250. Section 66-2602, R.C.M. 1947, is amended to read as follows:

"66-2602. **Purpose of the act.** (1) It is the purpose of this *act* to reduce and minimize the waste of ground water resources within this state by reasonable regulation and licensing of drillers or makers of water wells in *this state* and to protect the health and general welfare by providing a means for the development of the natural resource of underground water in an orderly, sanitary, and reasonable manner. The reasonable regulation and licensing of drillers or makers of water wells is in the best interest of the public, and the waste of ground water resources through inefficient or incompetent operations of drillers or makers of water wells is prohibited. *For the protection of the public and for the conservation of underground water resources, it is necessary that standards be set and maintained to insure that competency in the drilling and making of water wells in this state is obtained.*"

Section 251. There is a new section to be numbered 66-2602.1, R.C.M. 1947, which reads as follows:

66-2602.1. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Board" means the board of water well contractors, provided for in section 82A-1602.26.

(2) "Department" means the department of professional and occupational licensing, provided for in title 82A, chapter 16.

(3) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of groundwater. The term does not include excavations by backhoe, or otherwise, for recovery and use of surface waters where the depth is twenty-five (25) feet or less, and the term does not include an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying or for inserting media to repressure oil or natural gas-bearing formations or for storing petroleum, natural gas, or other products.

(4) "Water well contractor" or "contractor" means a person, firm, co-partnership, association, or corporation, who constructs a water well on lands other than his own, for compensation."

Section 252. There is a new section to be numbered 66-2602.2, R.C.M. 1947, which reads as follows:

66-2602.2. **Exceptions.** This act does not apply to:

(1) An individual who drills a water well on land which is owned or leased by him and is used by him for farming, ranching, or agricultural purposes or as his place of abode; or

(2) An individual who performs labor or services for a licensed water well contractor in connection with the drilling of a water well at the direction and under the personal supervision of a licensed water well contractor.

Section 253. Section 66-2604, R.C.M. 1947, is amended to read as follows:

"66-2604. **Board — seal — compensation.**

(1) The board shall have a seal with the following words engraved thereon: "Board of Water Well Contractors." This seal shall be affixed to writs, authentication of records, and other official proceedings of the board. The courts of this state shall take judicial notice of the seal.

(2) Each persons as may be necessary to perform the duties of the board, either upon a part-time basis or upon a full-time basis, appointed member of the board who is not a state employee shall receive, as compensation for his services, twenty dollars (\$20) per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the places at which he shall perform such duties, together with mileage and per diem expenses as provided by law. Employees of the state of Montana who are members of the board shall receive no extra compensation for their services as members of the board."

Section 254. Section 66-2605, R.C.M. 1947, is amended to read as follows:

"66-2605. **Powers and duties of the board.** (1) The board may exercise the authority granted to it by this act.

(2) The board shall adopt rules and orders to effectuate this act.

(3) The board may request the department to inspect water wells drilled, or being drilled, and the department has access to these at reasonable times.

(4) The board may, subject to sections 82A-1603 and 82A-1604, establish a program for training water well drillers or prospective water well drillers and apprentices, to more effectively carry out this act.

(5) The rules of the board shall be compiled in printed form for distribution to interested persons, for which the department may charge a fee. Sums realized from these sales shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6).

(6) The board shall authorize the department to issue licenses to qualified water well contractors in this state; cause examinations to be made of applicants for licenses; revoke or suspend licenses for good cause, after notice and opportunity to be heard; reinstate licenses previously revoked when justification is shown to the satisfaction of the board; and, generally, perform duties which will carry out this act."

Section 255. Section 66-2606, R.C.M. 1947, is amended to read as follows:

"66-2606. **Water well contractor's licenses.** (1) A person desiring to engage in the drilling, making, or construction of one (1) or more wells for underground water in this state shall first file an application with the department for a contractor's license, setting out his qualifications, the equipment proposed to be used in the contracting, and other matters required by the board, on forms adopted by the board. The department shall charge a fee of one hundred dollars (\$100) for filing the application of a person. The application shall not be acted on until the fee has been paid. Fees collected under this section shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6). A license to construct water wells shall be issued to an applicant if, in the opinion of the board, the applicant is qualified to conduct water well construction operations. In the granting of licenses, the board shall have due regard for the interest of this state in the protection of its underground waters.

(2) A temporary water well contractor's license may be issued to a person who, by evidence satisfactory to the board, is found to possess the qualifications numbered (a) through (f) in section 66-2608(1) and who has applied for a license under this act. The temporary license entitles the holder to engage in the business of drilling, making, or constructing water wells until the time of the next examination given under section 86-2608. On the applicant's successfully meeting the board's requirements on examination, the temporary license shall be returned to the department and a regular license issued. If the holder of a temporary license fails,

after notice of the holding of an examination, to submit himself for examination or to meet the board's requirements, *the* temporary license expires and shall be returned to the department for cancellation."

Section 256. Section 66-2607, R.C.M. 1947, is amended to read as follows:

"66-2607. **License year.** The term for licenses issued under this act is from July 1 of each year through the following June 30. After the payment of the initial fee under section 66-2606 a licensee shall pay, before the first day of each license year, a renewal fee of twenty-five dollars (\$25). If a licensee does not apply for renewal of his license before the first day of a license year, and remit to the department the renewal fee, he shall have his license suspended by the board; and, if the license remains suspended for a period of more than thirty (30) days after the first day of a license year, it shall be revoked by the board. However, the department, prior to this revocation, shall notify the licensee of the board's intention to revoke at least ten (10) days prior to the time set for action to be taken by the board on the license, by mailing notice to the licensee at the address appearing for the licensee in the records and files of the department. A license, once revoked, may not be reinstated unless it appears that an injustice has occurred indicating to the board that the licensee was not guilty of negligence or laches. A person whose license has been revoked, through his own fault, if he desires to engage in the business of water well drilling in this state, or contracting therefor, must apply under section 66-2606. Notice of suspension shall be given a licensee when the suspension occurs."

Section 257. Section 66-2608, R.C.M. 1947, is amended to read as follows:

"66-2608. **Examination and qualifications.** (1) Under rules pertaining to the business of drilling and contracting for drilling of water wells which the board adopts, the department shall, subject to section 82A-1603(4), inquire by examination or otherwise, into the qualifications of applicants for licenses to drill or make wells for the production of underground waters in this state. Examinations may be oral, written, or both. The qualifications required by the board are: (a) familiar knowledge of ground water laws of this state and sanitary standards for water well drilling and construction of water wells; (b) knowledge of types of water well construction; (c) knowledge of types of drilling tools and their uses; (d) knowledge of underground geology in its relation to well construction; (e) possession of adequate equipment by the applicant to complete satisfactory water wells under the standards of the board; (f) financial responsibility of the applicant; (g) successful completion of an examination given by the department.

(2) The department shall give examinations at times and places the board determines. Failure of an applicant to successfully complete the examination disqualifies him from making further application for a period of six (6) months. The board shall act within a reasonable time on applications for licenses. An application shall be accompanied by the initial fee, and failure to successfully meet the requirements of the board does not entitle the applicant to a refund of the fee."

Section 258. Section 66-2609, R.C.M. 1947, is amended to read as follows:

"66-2609. **Bond to be required.** The department, on issuance of a license under this act shall, before the person commences operations in this state require a good and sufficient surety bond, to be approved by the board, in the penal sum of one thousand dollars (\$1,000), conditioned that the licensee will comply with the rules of the board and reasonable requirements made by the board in connection with the drilling of an individual well."

Section 259. Section 66-2610, R.C.M. 1947, is amended to read as follows:

"66-2610. **Revocation and suspension.** (1) A license issued under this act may be suspended or revoked by the board, in cases other than failure of a licensee to renew the license, after notice and hearing, in the event the licensee has violated a condition of the bond maintained by him as a prerequisite to issuance of the license, for the practice of fraud or deceit in obtaining a license, for gross negligence, incompetence, conviction of a felony, or violating the requirements of this act. Any person may make complaint against a licensee. Complaints shall be in writing, signed by the complainant, and must specify the charges against the licensee. The board, on its own motion, or on receipt of a complaint, shall hold a hearing on charges.

(2) A person bringing the complaint has the burden of proof and must appear in person. A unanimous vote of the board is required in order to revoke or suspend a license. If a suspension is directed by the board, it may not be for a period in excess of one (1) year."

Section 260. Section 66-2701, R.C.M. 1947, is amended to read as follows:

"66-2701. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Board" means the board of morticians, provided for in section 82A-1602.16.

(2) "Funeral directing" includes

(a) Supervising funerals,

(b) Preparing dead bodies for burial other than by embalming,

(c) Maintaining a mortuary for the preparation, disposition, or care of dead human bodies, and

(d) The holding out to the public that one is a funeral director or undertaker.

(3) "Embalming" means the preservation and disinfection of the dead human body by application of chemicals externally, internally, or both.

(4) "Mortuary science" is the profession or practice of funeral directing and embalming.

(5) A "mortician" is a person licensed under *this act* to practice mortuary science.

(6) A "mortuary" is a place of business used for the care and preparation for burial or transportation of dead human bodies, or a place where a person represents himself as engaged in the profession of mortuary science or funeral directing.

(7) "*Department*" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 261. Section 66-2702, R.C.M. 1947, is renumbered 82A-1602.16, and is amended to read as follows:

"82A-1602.16. **Board of morticians — appointment — qualifications — term.** (1) There is a board of morticians.

(2) *The board consists of five (5) members appointed by the governor, with the consent of the senate. Each member shall be a licensed mortician.*

(3) *Each member shall serve for a term of five (5) years."*

Section 262. Section 66-2703, R.C.M. 1947, is amended to read as follows:

"66-2703. **Officers of board — compensation of members.** The board shall elect a chairman, secretary-treasurer, and other necessary officers. Board members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in attending meetings or in the discharge of other board duties."

Section 263. Section 66-2706, R.C.M. 1947, is amended to read as follows:

"66-2706. **Disposition of fees.** Money collected by the department under *this act* shall be deposited for the use of the board, subject to section 82A-1603(6)."

Section 264. Section 66-2707, R.C.M. 1947, is amended to read as follows:

"66-2707. **Funeral directing.** The practice of funeral directing is prohibited by anyone who does not hold a funeral director's license or a mortician's license issued by the department. A person licensed to practice funeral directing on June 1, 1963 is entitled to an annual renewal of his license on payment of an annual license fee to the department on July 1 of each year. The amount of the annual license fee shall be set by the board but may not exceed five dollars (\$5). A funeral director's license may not be issued to a person who is not licensed by the board of embalmers and funeral directors to practice funeral directing on June 1, 1963."

Section 265. Section 66-2708, R.C.M. 1947, is amended to read as follows:

"66-2708. **Embalming and mortuary science — qualifications for mortician's license.** The practice of embalming or mortuary science is prohibited by anyone who does not hold a mortician's license issued by the department. To qualify for a mortician's license a person must:

(1) Be of good moral character.

(2) Have graduated from an accredited college of mortuary science, and have satisfactorily completed two (2) academic years at an accredited college or university.

(3) Pass an examination prescribed by the board.

(4) Serve a one (1) year internship under the supervision of a mortician in a licensed mortuary in Montana."

Section 266. Section 66-2709, R.C.M. 1947, is amended to read as follows:

"66-2709. **Examination for morticians.** A person possessing the necessary qualifications may apply to the department for a license and on payment of an application fee of twenty-five dollars (\$25), may take the examination prescribed by the board. The examination shall be held on the second Wednesday of July each year in Helena and at such other times and places as the board considers necessary."

Section 267. Section 66-2711, R.C.M. 1947, is amended to read as follows:

"66-2711. **Mortician's license — fee and renewal.** (1) The annual license fee for a mortician's license must be postmarked before July 1 of the assessment year. The amount of the annual license fee shall be set by the board but may not exceed ten dollars (\$10). A person holding a license issued by the board of embalmers and funeral directors to practice embalming on June 1, 1963 may, within two (2) years of *this date*, apply for and receive a mortician's license on payment of the license fee.

(2) Failure to pay the annual license fee results in automatic suspension of the license. The license may be reinstated by the payment of unpaid license fees plus a penalty of twenty-five dollars (\$25)."

Section 268. Section 66-2715, R.C.M. 1947, is amended to read as follows:

"66-2715. **Hearing and notice — revocation and suspension of licenses.** No action to suspend, revoke, or cancel a license may be taken by the board until the accused has been given notice and a hearing on the charges. If, at the hearing, the board finds the charges true, it may revoke or suspend the license of the accused person."

Section 269. Section 66-2802, R.C.M. 1947, is amended to read as follows:

"66-2802. **Purpose.** (1) The purpose of this act is to protect the health and safety of the people of *this state* from the danger of electrically caused shocks, fires, and explosions; to protect property from the hazard of electrically caused fires and explosions; to establish a procedure for determining where and by whom electrical installations are to be made; to assure the public that persons making electrical installations are qualified; and to insure that the electrical installations and electrical products made and sold in this state meet minimum safety standards. All installations in *this state* of wires and equipment to convey electric current and installations of apparatus to be operated by current, except as

provided in section 66-2812, shall be made substantially in accord with the National Electrical Code, as approved by the American standards association, relating to *this* work as far as it covers fire and personal injury hazards, and as the National Electrical Code shall be amended. The standards as set forth in the National Electrical Code shall be prima facie evidence of minimum approved methods of construction for safety to life and property. The affirmative vote of a majority of all appointed members of the board shall be required to set any standards that are more stringent than those set forth in the National Electrical Code.

(2) Rules and standards relating to buildings and equipment covered by the state or a municipal building code are not effective until approved by the department of administration and filed with the secretary of state."

Section 270. Section 66-2803, R.C.M. 1947, is amended to read as follows:

"66-2803. **Definitions.** Unless the context requires otherwise, in this act: (1) "Master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation and repair of wiring apparatus and equipment for electric light, heat, power, and other purposes under the rules governing *this* work.

(2) "Journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes, under the rules governing *this* work.

(3) "Electrical contractor" means a person, firm, copartnership, corporation, association, or combination of these, who undertakes or offers to undertake for another the planning, laying out, supervising, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric light, heat, and power. A registered electrical engineer who plans or designs electrical installations is not an electrical contractor.

(4) "Board" means the state electrical board, provided for in section 82A-1602.10.

(5) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 271. Section 66-2804, R.C.M. 1947, is renumbered 82A-1602.10, and is amended to read as follows:

"82A-1602.10. **State electrical board.** (1) There is a state electrical board.

(2) The board consists of five (5) members, appointed by the governor, with the consent of the senate, who shall be residents of *this* state. One (1) member of the board shall represent the public. One (1) member of the board shall be selected from each of the following four (4) groups, from three (3) names submitted by each group:

- (a) Consumer members of rural electric cooperatives;
- (b) Master licensed electrical contractors;
- (c) Licensed journeyman electricians; and
- (d) Investor-owned electric utilities.

(3) The members of the board shall serve for a term of five (5) years with their terms of office so arranged that one (1) term expires on July 1 of each year.

(4) Each member of the board shall receive twenty-five dollars (\$25) per day for each day served in the discharge of his duties, together with the actual and necessary expenses incurred in the performance of his duties.

(5) A majority of the members of the board shall constitute a quorum for transaction of business."

Section 272. Section 66-2805, R.C.M. 1947, is amended to read as follows:

"66-2805. **Meetings — powers — compensation.** (1) The board shall annually in the month of July, elect from its membership a president, vice-president, and secretary-treasurer. The board shall meet quarterly and at such other times it considers necessary.

(2) The board may:

(a) Adopt rules for the administration of this act and for the licensing of electrical contractors and the examination and licensing of master and journeymen electricians.

(b) Adopt a seal;

(c) Cause the prosecution and enjoinder of persons violating this act;

(d) Suspend or revoke a license granted under this act for any of the following reasons:

(i) Violation of this act, the national electrical code, or the rules of the board;

(ii) Any cause for which issuance of the license could have been denied had it existed and been known to the board;

(iii) Commission of any act of gross negligence, incompetency, or misconduct as may be determined by the board in the practice of a master or journeyman electrician or the business of an electrical contractor; or

(iv) Making a material misstatement, misrepresentation or fraud in obtaining a license.

(3) Each member of the board shall receive actual and necessary expenses incurred in the performance of his duties."

Section 273. There is a new section to be numbered 66-2805.1, R.C.M. 1947, which reads as follows:

66-2805.1. **Department — inspections — tags.** (1) The department shall make inspections of electrical installations, issue inspection tags for these installations, and establish and charge a reasonable and uniform fee for the inspections, which may not exceed the expense of providing the inspection.

(2) Individuals, firms, cooperatives, corporations, or municipalities

selling electricity are power suppliers. Power suppliers may not connect with or energize an electrical installation, under this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag covering the installation, issued by the department.

(3) Immediately after an installation has been energized, the power supplier shall deliver to the department the inspection tag covering the installation.

(4) It is unlawful for a person, partnership, company, firm, association, or corporation, other than a power supplier, to energize an electrical installation under this act, unless an application for an inspection tag covering the installation, together with the inspection fee, has been forwarded to the department.

Section 274. Section 66-2806, R.C.M. 1947, is amended to read as follows:

"66-2806. **Electrician must have license.** A person *may not* engage in or work at the business, trade, or calling of electrical contractor, journeyman electrician, or master electrician in this state, until he *has* received from the *department* a license or permit to work as an electrical contractor, journeyman electrician, or master electrician."

Section 275. Section 66-2807, R.C.M. 1947, is amended to read as follows:

"66-2807. **License requirements.** (1) *Master electrician's license:*

(a) An applicant for a master electrician's license shall furnish written evidence that he is a graduate electrical engineer of an accredited college or university and has one (1) year of practical electrical experience, or that he is a graduate of an electrical trade school and has at least four (4) years of practical experience in electrical work, or that he has had at least five (5) years' practical experience in planning, laying out, supervising, or installing wiring, apparatus, or equipment for electrical light, heat, and power. Applicants for license as a master electrician shall file an application on forms *prescribed by the board* and furnished by the *department* together with the examination fee. The board shall, not less than thirty (30) days prior to a scheduled written examination, notify each applicant that the evidence submitted with his application is sufficient to qualify him to take the written examination or that the evidence is insufficient and is rejected. *If* the application is rejected the board shall set forth the reasons in the notice to the applicant, and shall *authorize the department* to return the applicant's examination fee. The place of examinations shall be designated by the board and examinations shall be held *at least* once a year and at other times as, in the opinion of the board, the number of applicants warrants.

(b) The written examination shall consist of at least thirty (30) questions designed to fairly test the applicant's knowledge and *his* technical application in the following subjects:

- (i) The National Electrical Code;
- (ii) Cost estimating for electrical installments;

(iii) Procurement and handling of materials needed for electrical installations and repair;

(iv) Reading of blueprints for electrical work;

(v) Drafting and layout of electrical circuits;

(vi) Knowledge of practical electrical theory.

(2) *Journeyman electrician's license:*

(a) An applicant for a journeyman electrician's license shall furnish written evidence that he has had at least four (4) years apprenticeship in the electrical trade or four (4) years practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. Applications for license and notice to the applicant shall be made and given as in the case of master electricians' licenses.

(b) The written examination for a journeyman's license shall consist of at least thirty (30) questions designed to fairly test the applicant's knowledge and the technical application thereof in the following subjects:

(i) The Ohms law;

(ii) The National Electrical Code;

(iii) Layout and practical installation of electrical circuits.

(3) To insure impartiality, the examination *for either license* shall be by numbers drawn by lot. A paper *may not* be marked *with* the name of an applicant but shall be anonymously graded by the *department*, *subject to section 82A-1603*. The examination passing grade *is* seventy-five percent (75%). If it *is* determined that the applicant has passed the examination, the *department*, on payment by the applicant of the fee, shall issue to the applicant a license which *authorizes* him to engage in the business, trade, or calling of a journeyman electrician or master electrician. Each original license *expires* on July 15 which is at least one (1) year but not more than two (2) years subsequent to the date of issuance.

(4) *Licenses* of journeyman electricians or master electricians, unless they have been suspended or revoked by the board, shall be renewed for a period of one (1) year by the *department* on application for renewal made to the *department* prior to July 15 of the year in which the prior license expired and on the payment of an annual renewal fee. If application for renewal is not made prior to July 15, an additional fee of five dollars (\$5) shall be paid on account of the delinquency in renewal. *All* applications for renewal must be made prior to August 15 of that year, otherwise the license *is* forfeited, and the applicant *is* required to pass the examination and pay the fees required of applicants for original licenses."

Section 276. Section 66-2809, R.C.M. 1947, is amended to read as follows:

"66-2809. **License to nonresidents — reciprocity.** To the extent that other states, which provide for the licensing of electricians, provide for similar action, the board may grant licenses to electricians licensed by other states, on payment by the applicant of the required fee and on fur-

nishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this section are not required to take a written examination."

Section 277. Section 66-2810, R.C.M. 1947, is amended to read as follows:

"66-2810. **Temporary permits.** The board may *authorize the department* to issue temporary permits to engage in the work of a master electrician or journeyman electrician to an applicant who furnishes evidence satisfactory to the board that he has the required experience to qualify for the examination and who pays the fee. Temporary permits continue in effect only until the next examination is given and may be revoked by the board at any time. If the applicant is granted a license, a fee paid for the temporary permit shall be applied to the fee required for a license."

Section 278. Section 66-2811, R.C.M. 1947, is amended to read as follows:

"66-2811. **License without written examination.** The board may *authorize the department* to issue a license as a master electrician or journeyman electrician to an applicant without written examination on satisfactory proof that *the* applicant has the qualifications to apply for a license under this act and is the holder of a valid license issued by a city or other political subdivision of this state *which provides* for the examination and licensing of electricians."

Section 279. Section 66-2814, R.C.M. 1947, is amended to read as follows:

"66-2814. **Fees.** Each electrical contractor shall, before July 1 of each year, file with the *department* an application in writing for each firm operated by him in *this state* to obtain a license. A license *may not* be issued until the applicant meets the requirements and has paid to the *department* a license fee of seventy-five dollars (\$75) for each firm operated by him. *Licenses* shall bear the date of issue and expire on July 1 following the date of issue. An electrical contractor licensed under this act is entitled to have his license renewed for the ensuing year by payment to the *department* of a fee of seventy-five dollars (\$75) before the date of expiration of the license."

Section 280. Section 66-2815, R.C.M. 1947, is amended to read as follows:

"66-2815. **Examination fees.** Master electricians who are not electrical contractors and journeyman electricians *installing* or intending to *install* for hire electric wiring or equipment to convey electric current, or apparatus to be operated by *this* current, shall make application for a license to the *department*. The application shall be on a form furnished by the *department* and accompanied by an examination fee of ten dollars (\$10). The forms shall state the applicant's full name, his address, the extent of his experience, and other information required by the board. *If the applicant has complied with the rules adopted by the board and, being qualified, has successfully completed the examination, he shall pay to the*

department an annual license fee of: twenty-five dollars (\$25) for a master electrician's license; or ten dollars (\$10) for a journeyman electrician's license, and upon receipt of *either fee, the department shall issue the proper license to the applicant.* A person serving a four (4) year electrician apprenticeship under the supervision of a licensed electrician is exempt from the licensing provision of this *section* during training. *Credit* for the time spent in an electrical school shall be given to the master electrician, journeyman electrician, or apprentice, up to a total of two (2) years on the four (4) year requirement."

Section 281. Section 66-2817, R.C.M. 1947, is amended to read as follows:

"66-2817. **Apprentices — rules — record kept by department.** *This act does not prohibit a person from working as an apprentice in the trade of electrician with an electrician licensed under this act, and under rules made by the board. The name and residence of each apprentice, and the names and residences of their employers, shall be filed with the department, and a record shall be kept by the department, showing the names and residences of these apprentices.*"

Section 282. Section 66-2819, R.C.M. 1947, is amended to read as follows:

"66-2819. **Disposition of fees.** *Money collected by the department under this act shall be deposited in the earmarked revenue fund, for the use of the board, subject to section 82A-1603(6).*"

Section 283. Section 66-2902, R.C.M. 1947, is amended to read as follows:

"66-2902. **Definitions.** *Unless the context requires otherwise, in this act:*

(1) "*Masseur*" includes persons engaged in the occupation of massage and includes the feminine "masseuse."

(2) "*Massage*" means the trained ability of body massage by hands for the purpose of body massage, the use of oil rubs, salt glows, hot and cold packs, tub, shower or cabinet baths; and the application to the patron by the operator's hands by variations of touch, stroking, friction, kneading, vibration, percussion, and gymnastics.

(3) "*Massage establishment*" means a place in which any of the above procedures and methods are administered or used.

(4) "*Board*" means the board of massage therapists, provided for in section 82A-1602.14.

(5) "*Department*" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 284. Section 66-2903, R.C.M. 1947, is renumbered 82A-1602.14, and is amended to read as follows:

"82A-1602.14. **Board of massage therapists — appointment — qualifications — term.** (1) There is a board of massage therapists.

(2) *The board consists of three (3) members appointed by the governor. Each member shall be a resident of this state, and shall have been a masseur continuously in this state for at least one (1) year. Each member shall have integrity and ability as a masseur.*

(3) *Each member shall serve for a term of three (3) years."*

Section 285. Section 66-2904, R.C.M. 1947, is amended to read as follows:

"66-2904. Organization of board — meetings — powers and duties. (1) *The board shall annually elect a president, vice-president, and secretary-treasurer from its membership.*

(2) *The board shall hold one (1) regular meeting each year, at the city of Helena, Montana, and shall hold special meetings at times and places a majority of the board designates; however, not more than four (4) meetings may be held in any one (1) year. A majority of the board constitutes a quorum.*

(3) *The board may administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the power of the board. It shall adopt a seal, which shall be affixed to licenses issued, and may adopt rules it considers proper and necessary for the performance of its duties, and shall adopt a schedule of minimum educational requirements, not inconsistent with this law, which shall be without prejudice, partiality, or discrimination as to the different schools of massage training. The department shall keep a record of the proceedings of the board, which shall at all times be open to public inspection."*

Section 286. Section 66-2905, R.C.M. 1947, is amended to read as follows:

"66-2905. Practicing without a license — license without examination. (1) *It is unlawful for a person to engage in the occupation of massage in this state without first obtaining a license under this act.*

(2) *When application for examination for license is filed with the department the board may authorize the department to issue to the applicant a temporary permit to engage in the occupation of massage, which is good until the next meeting of the board."*

Section 287. Section 66-2906, R.C.M. 1947, is amended to read as follows:

"66-2906. Application and fees for license. (1) *A person wishing to engage in the occupation of a masseur in this state shall make application to the department on the form and in the manner prescribed by the board, at least fifteen (15) days prior to a meeting of the board. Each applicant shall hold a diploma or credentials issued by a recognized, approved school of massage or similar institution, certifying not less than one thousand (1,000) hours of study satisfactory to the school. Application shall be in writing and sworn to by some officer authorized to administer oaths, and shall recite the history of the applicant's educational qualifications, how long he has studied massage, from what school he holds a certificate, and the length of time he has engaged in the occupation of massage, accom-*

panying this with proof by a diploma or certificate and with satisfactory evidence of good character and reputation.

(2) *There shall be paid to the department, by an applicant for a license, a fee of thirty-five dollars (\$35) which shall accompany the application. An applicant failing to pass the requirements is entitled within six (6) months to a re-examination on payment of an additional fee of ten dollars (\$10), but on a third failure may not reapply."*

Section 288. Section 66-2907, R.C.M. 1947, is amended to read as follows:

"66-2907. Examinations. (1) *Examinations for licenses to engage in the occupation of massage shall be made by the department, subject to section 82A-1603, and according to the method considered by the board to be the most practicable and expeditious to test the applicant's qualifications.*

(2) *Examinations shall be in writing, and in addition each applicant shall pass a reasonable demonstrative and oral examination. Minimum requirements are a general average in the examination of seventy-five percent (75%) in all subjects and not less than fifty percent (50%) in any one (1) subject. In addition to the subjects as may be designated by the board, the examination shall include principles of sanitation and hygiene."*

Section 289. Section 66-2908, R.C.M. 1947, is amended to read as follows:

"66-2908. Denial or revocation of license. *The board may, after hearing, deny, revoke or refuse to renew a license under this act to a person, otherwise qualified, who obtained the license by fraudulent representation, for incompetency in practice, for use of untruthful or improbable statements to patrons or in his advertisements, for habitual intoxication or for unprofessional and immoral conduct. The board may authorize the department to reissue a license after a lapse of not less than six (6) months, if in the board's judgment, the act or conditions of disqualification have been remedied. It is a violation of this act for a person engaged in the occupation of a masseur to advertise or assert as a licensee under this act that he diagnoses or treats a disease, injury, or illness."*

Section 290. Section 66-2909, R.C.M. 1947, is amended to read as follows:

"66-2909. Renewal of license. *A license expires on December 31 of each year and shall be renewed then or thereafter, by the department, on payment of a renewal fee of not less than ten dollars (\$10) or more than twenty-five dollars (\$25), as set by the board."*

Section 291. Section 66-2910, R.C.M. 1947, is amended to read as follows:

"66-2910. Disposition of fees — receipts and disbursements. (1) *Examination and renewal fees received by the department under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6).*

(2) The *department* shall keep an accurate account of funds received and vouchers issued.

(3) The members of the board shall receive a per diem of fifteen dollars (\$15) for each day during which they are actually engaged in the discharge of their duties, and mileage as provided in section 59-801 for each mile necessarily traveled in going to and from a meeting of the board.

(4) Per diem, mileage, and other expenses necessarily connected with the board shall be paid only out of the earmarked revenue fund."

Section 292. Section 66-3003, R.C.M. 1947, is amended to read as follows:

"66-3003. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Board" means the board of hearing aid dispensers, provided for in section 82A-1602.12.

(2) "License" means a regular or temporary license.

(3) "Hearing aid" means an instrument or device designed for or represented as aiding or improving defective human hearing and parts, attachments, or accessories of the instrument or device.

(4) "Practice of dispensing and fitting hearing aids" means the evaluation, or measurement of the powers or range of human hearing by means of an audiometer and a visual examination of the ear and canal or by any other means devised and the consequent selection, adaption, or sale of hearing aids intended to compensate for hearing loss, including eyeglass hearing aids and their fittings, and the making of an impression of the ear, but does not include batteries, cords, or accessories.

(5) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 293. Section 66-3004, R.C.M. 1947, is renumbered 82A-1602.12, and is amended to read as follows:

"82A-1602.12. **Board of hearing aid dispensers — appointment — qualifications — term.** (1) There is a board of hearing aid dispensers.

(2) The board consists of five (5) members appointed by the governor. The members are:

(a) One (1) member appointed from a list submitted by the Montana academy of oto-ophthalmology. This member shall hold or be eligible for a certificate of qualification from the American board of otolaryngology.

(b) One (1) member appointed from a list submitted by the Montana speech and hearing association. This member shall hold or be eligible for a certificate of clinical competence in audiology from the American speech and hearing association.

(c) Three (3) members appointed from a list submitted by the Montana hearing aid dealers' society. These members shall have been qualified dispensers and fitters of hearing aids for at least five (5) years before their appointment to the board.'

(d) One (1) alternate member shall be appointed from each of the three (3) lists to serve when a regular member cannot attend a scheduled meeting.

(3) Each member shall serve for a term of three (3) years. A member may not be reappointed within one (1) year after the expiration of his second consecutive full term. If a vacancy occurs on the board, the governor shall appoint a person from the same list as the member whose term was not completed."

Section 294. Section 66-3005, R.C.M. 1947, is amended to read as follows:

"66-3005. **Powers and duties of board.** The powers and duties of the board are to:

(1) License persons who apply and are qualified to practice the fitting of hearing aids;

(2) Establish a procedure to act as a grievance board to receive, investigate, and mediate complaints from any source concerning the activities of persons licensed under this act, or their agents whether licensed or not;

(3) Suspend or revoke licenses under this act;

(4) Designate the time and place for examining applicants for license;

(5) Adopt rules necessary to carry out this act;

(6) Require the periodic inspection and calibration of audiometric testing equipment and carry out periodic inspections of facilities of persons who practice the fitting or selling of hearing aids;

(7) Prepare examinations required by the act;

(8) Initiate legal action to enjoin from operation a person or corporation engaged in the sale and fitting of hearing aids in this state, who is not licensed under this act."

Section 295. Section 66-3006, R.C.M. 1947, is amended to read as follows:

"66-3006. **Meeting place and time — quorum.** (1) The board shall meet at least once each year at a place and time determined by the chairman and at other times and places specified by the chairman to carry out this act. Three (3) members, including either the otolaryngologist or the audiologist, constitute a quorum.

(2) Members of the board shall annually designate one (1) member to serve as chairman and another member to serve as secretary-treasurer."

Section 296. Section 66-3007, R.C.M. 1947, is amended to read as follows:

"66-3007. **License required to dispense and fit hearing aids.** A person may not engage in the sale or practice of dispensing and fitting hearing aids or display a sign or in any other way advertise or hold him-

self out as a person who practices the dispensing and fitting of hearing aids unless he holds a current regular or temporary license issued by the department."

Section 297. Section 66-3009, R.C.M. 1947, is amended to read as follows:

"66-3009. **Exclusions.** (1) This act does not apply to a person who is a physician licensed to practice by the Montana state board of medical examiners.

(2) This act does not apply to a person while he is engaged in the practice of fitting hearing aids if his practice is part of the academic curriculum of an accredited institution of higher education, or part of a program conducted by a public agency or by a charitable or nonprofit organization which is primarily supported by voluntary contributions, unless they sell hearing aids."

Section 298. Section 66-3011, R.C.M. 1947, is amended to read as follows:

"66-3011. **Written and practical tests — date of examinations.** (1) An applicant for a license who is notified by the department that he has fulfilled the requirements of section 66-3010 shall appear at a time and place designated by the board to be examined by written and practical tests in order to demonstrate that he is qualified to practice the fitting of hearing aids.

(2) The department shall, subject to section 82A-1603, give examinations required to permit applicants to be examined within thirty (30) days following the board's approval of the application for examination. Examination may be delayed on notice to the department, under this section."

Section 299. Section 66-3014, R.C.M. 1947, is amended to read as follows:

"66-3014. **Temporary license — qualifications — fee.** (1) An applicant who fulfills the requirements of section 66-3010 and who has not previously applied to take the examination under section 66-3011 may apply to the department for a temporary license.

(2) On receiving an application under subsection (1) of this section, accompanied by a fee of twenty-five dollars (\$25), the department shall issue a temporary license which entitles the applicant to practice the fitting and dispensing of hearing aids for a period ending thirty (30) days after the conclusion of the next examination given after the date of issue.

(3) No temporary license may be issued by the department unless the applicant shows to the satisfaction of the board that he is, or will be, supervised and trained by a person who holds a valid license issued under this act.

(4) If a person who holds a temporary license does not take the next examination given after the date of issue, the temporary license may not be renewed, except for a good cause shown to the satisfaction of the board.

(5) If a person who holds a temporary license takes and fails to pass the next examination given after the date of issue, the board may authorize the department to renew the temporary license for a period ending thirty (30) days after the results of the next examination given after the dates of renewal are announced. In no event may more than two (2) renewals be permitted. The fee for renewal is thirty dollars (\$30)."

Section 300. Section 66-3015, R.C.M. 1947, is amended to read as follows:

"66-3015. **Permanent place of business in state necessary — exception — records — notice.** (1) A person who obtains a license to dispense hearing aids as a business must have a permanent place of business in this state that will be opened to serve the public, having the necessary testing, fitting and hearing aid accessories needed by the hard of hearing public in the wearing of hearing aids.

(2) Subsection (1) of this section does not apply to persons who obtain a license as sales people representing a licensed hearing aid dispenser.

(3) The department shall keep a record of the places of practice of persons who hold a regular license or temporary licenses. A notice required to be given by the board or department to a person who holds a regular or temporary license may be given by mailing it to him at the address last given by him to the department."

Section 301. Section 66-3016, R.C.M. 1947, is amended to read as follows:

"66-3016. **Annual renewal fee.** A person who practices the fitting of hearing aids shall annually pay to the department a fee of fifty dollars (\$50) for a renewal of his license. A thirty (30) day grace period is allowed after expiration of a license, during which it may be renewed on payment of a fee of fifty-five dollars (\$55) to the department. After the expiration of the grace period, the board may authorize the department to renew a license on payment of sixty dollars (\$60) to the department. A person who applies for renewal, whose license was suspended for failure to renew, is not required to submit to an examination as a condition of renewal for a three (3) year period after suspension."

Section 302. Section 66-3019, R.C.M. 1947, is amended to read as follows:

"66-3019. **Reciprocity — examination unnecessary — fee.** When the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect under this act for the practice of fitting and selling hearing aids, and that the state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants under this act are qualified to dispense and fit hearing aids, the board may authorize the department to issue a license to applicants who hold current, unsuspended and unrevoked licenses to fit and sell hearing aids in the other state or jurisdiction. No such applicants for a license under this section are required to submit to or undergo a qualifying examination, or the like, other than the payment of fees, if the person complies with all other requirements of this act."

Section 303. Section 66-3020, R.C.M. 1947, is amended to read as follows:

"66-3020. Deposit of fees in earmarked revenue fund — per diem and travel expenses. (1) *Fees collected by the department under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6).*

(2) Each member of the board shall receive twenty dollars (\$20) per diem when actually engaged in the discharge of his official duty, and in addition shall also be reimbursed for reasonable and necessary travel expense in attending a meeting of the board in the state."

Section 304. Section 66-3022, R.C.M. 1947, is amended to read as follows:

"66-3022. Licensee entitled to disciplinary hearing if duly requested — right to appeal. (1) No license issued under this act may be suspended, revoked, denied, or renewal denied without notice and a hearing, if requested by the applicant."

Section 305. Section 66-3101, R.C.M. 1947, is amended to read as follows:

"66-3101. Definitions. Unless the context requires otherwise, in this act:

(1) **"Board"** means the board of nursing home administrators, provided for in section 82A-1602.

(2) **"Nursing home administrator"** means a person who administers, manages, supervises, or is in general administrative charge of a long-term care facility, whether the individual has an ownership interest in the facility, and whether his functions and duties are shared with one or more individuals.

(3) **"Long-term care facility"** means any skilled nursing facility, nursing home or intermediate care facility as defined for licensing purposes under state law or the rules for long-term care facilities of the department of health and environmental sciences, whether proprietary or nonprofit, including facilities owned or administered by the state or a political subdivision.

(4) **"Inactive nursing home administrator"** means an individual who has been licensed in this state as a nursing home administrator, and whose license has not been revoked or suspended but who is not actively engaged in nursing home administration.

(5) **"Department"** means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 306. Section 66-3102, R.C.M. 1947, is renumbered 82A-1602.17, and is amended to read as follows:

"82A-1602.17. Board of nursing home administrators — appointment — qualifications — term — removal. (1) There is a board of nursing home administrators.

(2) *The board consists of five (5) voting members appointed by the governor. No more than two (2) members shall be nursing home administrators. The other three (3) members shall be representatives of professions or institutions concerned with the care of chronically ill and infirm aged patients. No two (2) of the latter shall be from the same profession and none may have a financial interest in a nursing home.*

(3) *The director of the department of health and environmental sciences, or his designee, and the director of the department of social and rehabilitation services, or his designee, are ex officio, non-voting members of the board.*

(4) *The appointees shall be selected from a list of three (3) nominees submitted for each appointee by the board of directors of the Montana nursing home association, inc.*

(5) *Each appointed member shall serve for a term of five (5) years. Any vacancy occurring in the position of an appointive member shall be filled by the governor for the unexpired term from a list of three (3) names submitted by the board of directors of the Montana nursing home association, inc.*

(6) *Appointive members may be removed by the governor only for cause."*

Section 307. Section 66-3103, R.C.M. 1947, is amended to read as follows:

"66-3103. Qualifications for licensure. (1) *The department shall register and issue licenses to qualified persons as nursing home administrators, and the board shall establish qualification criteria for nursing home administrators. No registration or license shall be issued to a person as a nursing home administrator unless:*

(a) *He is of good character, of sound physical and mental health, has received a high school diploma or its equivalent; and*

(b) *Has satisfactorily completed a course of instruction and training prescribed by the board, which shall be designed and administered to present sufficient knowledge of the needs properly served by long-term care facilities; laws governing the operation of long-term care facilities and the protection of the interests of patients; and the elements of good nursing home administration; or have presented evidence satisfactory to the board of sufficient education, training, or experience in the foregoing fields to administer, supervise, and manage a long-term care facility; and*

(c) *Has passed an examination designed to test for competence in the subject matters referred to in subsection (b).*

(2) *The minimum standards for qualification shall comply with the requirements, if any, set forth in Title XIX of the Social Security Act (P.L. 90-248, 1967), as amended."*

Section 308. Section 66-3104, R.C.M. 1947, is amended to read as follows:

"66-3104. Registration and licensing function. (1) *The department*

shall register and license nursing home administrators *under the rules adopted by the board*. A nursing home administrator's registration and license is not transferable and is valid until surrendered for cancellation, suspended, or revoked for violation of this act or any other laws or rules relating to the proper administration and management of a long-term care facility. Denial of issuance or renewal, suspension, or revocation under this act is subject to review by the board on the timely written request for review within thirty (30) days.

(2) If the board determines that preliminary qualifications set forth in 66-3103 (1) and (2), will have been met before the next examination it may *authorize the department* to issue a temporary permit for a period of one hundred eighty (180) days or until the scores of the next examination are announced. No temporary permit may be issued to an applicant after the date of the first examination for which he is eligible."

Section 309. Section 66-3106, R.C.M. 1947, is amended to read as follows:

"66-3106. **Deposit of fees.** Fees collected by the department under this act shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6). This fund may be used to pay the compensation and expenses of members of the board, and other expenses necessary to administer this act."

Section 310. Section 66-3109, R.C.M. 1947, is amended to read as follows:

"66-3109. **Duties of the board.** The board shall:

(1) Develop, impose, and enforce standards which must be met by individuals in order to register and receive a license as a nursing home administrator, designed to ensure that nursing home administrators are individuals of good character and otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators.

(2) Develop and apply appropriate techniques, including examination and investigations, for determining whether individuals meet the standards.

(3) *Authorize the department* to register and issue licenses to individuals, after application of the techniques, determined to meet the standards, and for cause, after notice and hearing, revoke or suspend licenses previously issued if the individual holding the license is determined substantially to have failed to conform to the requirements of the standards. The board may, in its discretion, defer execution of its order of revocation or suspension for the purpose of permitting continuity of care for patients when the need for this continuity of care outweighs any harm or danger which might result from the failure of the nursing home administrator to be registered and licensed, resulting in the closure of a long-term care facility.

(4) Establish and implement procedures designed to ensure that individuals registered and licensed as nursing home administrators will, during the period that they serve, comply with the requirements of the standards.

(5) On receipt of a written and signed complaint, an investigation of the matter contained in the complaint shall be initiated, *subject to sections 82A-1603 and 82A-1604*. At its next meeting, the complaint shall be presented to the board together with the report of investigation and recommendations and on this basis, the board shall determine whether to bring charges and provide for a hearing.

(6) Conduct a continuing study and investigation of nursing home administrators within the state with a view to the improvement of the standards imposed for the licensing of administrators and of procedures and methods for the enforcement of the standards with respect to nursing home administrators.

(7) Conduct, or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this act, and make provisions for the conduct of these courses and their accessibility to residents of this state, unless it finds that there are a sufficient number of courses conducted by others within this state to meet the needs of the state. *Instead*, the board may approve courses conducted within and outside of this state sufficient to meet the education and training requirements of this act.

(8) Prescribe or approve continuing education courses."

Section 311. Section 66-3111, R.C.M. 1947, is amended to read as follows:

"66-3111. **Reciprocity.** The department may issue at the board's discretion a nursing home administrator's license, without examination, to a person who holds a current license as a nursing home administrator from another jurisdiction, if the board finds that the standards for licensure in the other jurisdiction are at least substantially equivalent of those prevailing in this state, and that the applicant is otherwise qualified."

Section 312. Section 66-3202, R.C.M. 1947, is amended to read as follows:

"66-3202. **Definitions.** Unless the context requires otherwise, in this act:

(1) "Accredited college or university" means a college or university accredited by the regional accrediting association for institutions of higher learning, such as the Northwest Association of Secondary and Higher Schools.

(2) "Board" means the board of psychologists, provided for in section 82A-1602.27.

(3) A person represents himself to be a "psychologist" when he holds himself out to the public by a title or description of services incorporating the words psychologist, psychological, psychologic, or psychology and offers to render or renders psychological services defined in subsection (4) of this section to individuals, groups, corporations, or the public for compensation or fee.

(4) "Practice of psychology" means the application of principles,

methods and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, motions, and interpersonal relationship; the methods and procedures of interviewing, counseling, and behavior modification including psychotherapeutic techniques and hypnosis; and constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivation.

(5) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 313. Section 66-3203, R.C.M. 1947, is amended to read as follows:

"66-3203. License required to practice psychology — exempt activities. (1) A person may not represent himself to be a psychologist or engage in the practice of psychology unless he is licensed under this act.

(2) This act does not prevent:

(a) Qualified members of other professions such as physicians, social workers, lawyers, pastoral counselors, or educators, from doing work of a psychological nature consistent with their training and the codes of ethics of their respective professions if they do not hold themselves out to the public by a title or description incorporating the words "psychology" or "psychologist."

(b) The activities, services, and use of an official title on the part of a person in the employ of a federal, state, county, or municipal agency, or of other political subdivisions, or an educational or charitable institution in so far as these activities and services are a part of the duties of his office or position with the agency or institution.

(c) The activities and services of a student, intern, or resident in psychology, pursuing a course of study at an accredited university or college, or working in a generally recognized training center, if these activities and services constitute a part of his supervised course of study.

(d) The activities and services of a person who is not a resident of this state, in rendering consulting psychological services in this state when these services are rendered for a period which does not exceed in the aggregate more than sixty (60) days during a calendar year if the person is authorized under the laws of the state or country of his residence to perform these activities and services; However, these persons shall report to the department the nature and extent of the services in this state if they exceed ten (10) days in a calendar year.

(e) A person authorized by the laws of the state or country of his former residence to perform activities and services, who has recently become a resident of this state, and who has applied for a license in this state, pending disposition of his application.

(f) The use of the term "social psychologist" by a person who:

(i) Has been graduated with a doctoral degree in sociology or social

psychology from an institution whose credits in sociology or social psychology are acceptable by a recognized educational institution;

(ii) Has passed comprehensive examinations in the field of social psychology as part of the requirement for the doctoral degree or who has had equivalent specialized training in social psychology; and

(iii) Has filed with the department a statement of facts demonstrating his compliance with this subdivision.

(g) The offering of lecture services for a fee by a person exempted from licensing requirements by virtue of his employment.

(h) Activities of a psychological nature on the part of persons who are salaried employees of accredited academic institutions, governmental agencies, research laboratories, and business corporations, if these employees are performing the duties for which they are employed by the organizations, and within the confines of the organization."

Section 314. Section 66-3204, R.C.M. 1947, is renumbered 82A-1602.27, and is amended to read as follows:

"82A-1602.27. Board of psychologists — appointment — qualifications — term. (1) There is a board of psychologists.

(2) The board consists of three (3) members appointed by the governor. The governor shall appoint all members, including a member filling a vacancy for an unexpired term, from the list of licensed psychologists in this state. A member may not succeed himself, but may be reappointed after three (3) years following the termination of his previous appointment. Each member shall be a citizen of the United States, and a resident of this state.

(3) Each member shall serve for a term of three (3) years."

Section 315. Section 66-3205, R.C.M. 1947, is amended to read as follows:

"66-3205. Duties of board. (1) The board shall hold a regular annual meeting in which it shall select from its members a chairman and a secretary. The department shall keep a record of the board's proceedings. Other regular meetings shall be held at such times as the rules of the board provide. Special meetings may be held at times considered necessary or advisable by the chairman and the majority of its members, or on the request of the governor. Reasonable notice of meetings shall be given in the manner prescribed by the board. The quorum of the board consists of the majority of its members.

(2) Each board member shall receive actual and necessary traveling and subsistence expenses incidental to board meetings.

(3) The board may make reasonable and necessary rules for the proper performance of its duties and for the regulation of proceedings before it.

(4) The attorney general shall act as attorney for the board. He or his representative may sit as an ex officio member of the board in an advisory capacity only.

(5) The board shall adopt an official seal."

Section 316. Section 66-3206, R.C.M. 1947, is amended to read as follows:

"66-3206. **Examinations and issuance of license — expiration and renewal — publication of list of psychologists.** (1) The *department* shall administer examinations to qualified applicants for licensing at least once a year, *subject to section 82A-1603*. The board shall determine the subject and scope of specialized psychological areas and techniques for examination. Examinations may be written, oral, or both. The board shall determine an acceptable level of performance for each examination.

(2) An applicant who fails his first examination may be re-examined at subsequent examination *on the payment of another examination fee*. An applicant who fails two (2) successive examinations may apply for re-examination after two (2) years of additional professional experience or training.

(3) The *department* shall issue a license to each person who meets the requirements for licensure as prescribed in this act. The license shall include the dates of issuance and expiration and shall bear a serial number. It shall be signed by the secretary of the board under the seal of the board.

(4) The license *expires* on January 1 following the date of its issuance or renewal and is invalid thereafter. The *department* shall notify each person licensed under this act relative to the date of the expiration of his license and the amount of his renewal fee. This notice shall be mailed to each licensed psychologist at his listed address at least one (1) month before the expiration of the license.

(5) Renewal may be made during the sixty (60) days prior to the expiration date by application. Failure on the part of a person licensed to pay his renewal fee by the expiration date does not deprive him of the right to renew his license, but the fee shall be increased ten per cent (10%) for each month or major portion thereof that the payment of the renewal fee is delayed after the expiration date. The maximum fee for delayed renewal *may* not exceed twice the normal renewal fee. Application for renewal following a lapse of one (1) year or more will be subject to review by the board, and the applicant may be requested to complete an examination successfully if the board so determines.

(6) The *department* shall publish yearly a list of psychologists licensed under this act. This list shall contain names and addresses and other information the board *considers* advisable. The *department* shall mail a copy of this list to each person licensed under this act, place a copy on file in the secretary of state's office, and furnish copies to the public, *on request*."

Section 317. Section 66-3208, R.C.M. 1947, is amended to read as follows:

"66-3208. **Qualifications and requirements for licensure — reciprocity.** (1) Application for examination for licensing a psychologist shall be made *on forms* prescribed by the board.

(2) The board shall license as a psychologist any person who pays the

prescribed fee, *passes the prescribed examination*, and submits evidence by oath that he:

(a) Is a resident of or shows satisfactory evidence of intent to become a resident of *this state* at the time he is licensed;

(b) Is at least eighteen (18) years of age;

(c) Is of good moral character;

(d) Has received a doctoral degree based on a program of studies, primarily psychological in content, from an accredited college or university having an appropriate graduate program;

(e) *Has* completed at the time of application a minimum of two (2) years of experience in the practice, research, or teaching of psychology. One (1) year of *this* experience shall be post-doctoral.

(3) A license without examination may be issued to a psychologist licensed or certified in another state where the licensing or certification requirements are substantially equivalent to the requirements of this act, or to a psychologist who is a diplomate in good standing of the American board of professional psychology."

Section 318. Section 66-3209, R.C.M. 1947, is amended to read as follows:

"66-3209. **Grounds for refusal or revocation of license — hearing.** (1) A license applied for, or issued under this act, may be refused or revoked by the board *on proof* that the person to whom the license was issued:

(a) Has been convicted of a felony;

(b) Has been guilty of fraud or deceit in securing the license or a renewal; or

(c) Is using a narcotic or an alcoholic beverage to an extent that *the* use impairs his ability to perform the work of a professional psychologist with safety to the public; or

(d) Has been guilty of unprofessional conduct as defined by the code of ethics published by the American Psychological Association.

(2) *The board may not revoke or refuse to issue or renew a license for any cause, other than failure to pay fees, unless the person is given notice and opportunity for a hearing before the board.*"

Section 319. Section 66-3211, R.C.M. 1947, is amended to read as follows:

"66-3211. **Fees.** (1) The *department* shall collect the following fees, none of which is refundable:

(a) Application feetwenty-five dollars (\$25)

(b) Examination feefifteen dollars (\$15)

(c) Certificate feeten dollars (\$10)

(d) Renewal feetwenty dollars (\$20) to fifty dollars (\$50)

The board *may* set the annual renewal fee annually within the above limits.

(2) The initial certificate fee shall be prorated as follows:

(a) If the certificate is issued between January 2 and March 31
..... *ten dollars (\$10)*

(b) If the certificate is issued between April 1 and June 30
..... *seven dollars and fifty cents (\$7.50)*

(c) If the certificate is issued between July 1 and September 30
..... *five dollars (\$5)*

(d) If the certificate is issued between October 1 and January 1
..... *two dollars and fifty cents (\$2.50)*

(3) Renewal certificates shall be secured annually and dated January 2.

(4) *Fees* received by the *department* shall be deposited in the earmarked revenue fund for the use of the board, *subject to section 82A-1603(6).*

Section 320. Section 67-2003, R.C.M. 1947, is amended to read as follows:

"67-2003. **Definitions.** Except where the context indicates a different meaning, terms used in this act shall be defined as follows:

(1) A "property corner" is a geographic point on the surface of the earth, and is on, a part of, and controls a property line.

(2) A "property controlling corner" for a property is a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(3) A "public land survey corner" is any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.

(4) A "corner," unless otherwise qualified, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.

(5) An "accessory to a corner" is any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(6) A "monument" is an accessory that is presumed to occupy the exact position of a corner.

(7) A "reference monument" is a special monument that does not occupy the same geographical position as the corner itself, but whose

spatial relationship to the corner is recorded, and which serves to witness the corner.

(8) A "registered surveyor" is a surveyor who is registered to practice land surveying under *Title 66, chapter 23*, and has a paid up license for that calendar year, or who is authorized under *Title 66, chapter 23*, to practice land surveying.

(9) The "board" is the board of professional engineers and land surveyors, *provided for in section 82A-1602(11).*

Section 321. Section 67-2101, R.C.M. 1947, is amended to read as follows:

"67-2101. **Definition of terms.** *Unless the context requires otherwise, in this act:*

(1) "Subdivision" and "subdivided lands" mean any tract of land which is hereafter divided into five (5) or more parcels, a parcel of which is less than five (5) acres in size, and which is offered for sale or lease outside the state of Montana.

(2) "Board" means the board of real estate, *provided for in section 82A-1602.23.*

(3) "Department" means the department of professional and occupational licensing, *provided for in Title 82A, chapter 16.*"

Section 322. Section 67-2102, R.C.M. 1947, is amended to read as follows:

"67-2102. **Rules.** The *board* may adopt rules necessary for the enforcement of this act."

Section 323. Section 67-2103, R.C.M. 1947, is amended to read as follows:

"67-2103. **Notice of intention to offer subdivided lands — contents of notice.** (1) Prior to the time when subdivided lands are to be offered for sale or lease outside the state of Montana, the owner, his agent or subdivider shall notify the *board* in writing of his intention to sell or lease such offering.

(2) The notice of intention shall contain the following information:

(a) The name and address of the owner;

(b) The name and address of the subdivider;

(c) The legal description and area of lands, together with a map showing the layout proposed and relation to existing streets or roads;

(d) A true statement of the conditions of the title to the land, particularly including all encumbrances thereon;

(e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any and all forms of conveyance intended to be used;

(f) A true statement of the provision for legal access, sewage disposal, and public utilities in the proposed subdivision, including water, electricity, gas, and telephone facilities;

(g) Copies of any advertising, information, promotion brochures or similar material depicting the existing property or as it is to exist, which might cause or tend to induce purchase of the property, or an interest therein, when *the* material is or might be circulated outside of this state;

(h) Such other information as the owner, his agent, or subdivider, may desire to present."

Section 324. Section 67-2105, R.C.M. 1947, is amended to read as follows:

"67-2105. **Additional information required by board.** After receiving the notice of intention, the *board* may require additional information concerning the project as *it considers* necessary, for which *it* may prepare a questionnaire for the owner, his agent or subdivider, to answer."

Section 325. Section 67-2106, R.C.M. 1947, is amended to read as follows:

"67-2106. **Fee for filing of questionnaire — disposition of fees.** *When the questionnaire provided for in section 67-2105 is filed, the person filing the questionnaire shall pay to the department a filing fee of one hundred dollars (\$100). Fees and charges provided for by this act shall be paid to the department and by it deposited with the state treasurer. The state treasurer shall place five per cent (5%) of these fees and charges in the general fund and ninety-five per cent (95%) of these fees and charges in the earmarked revenue fund. Fees deposited in the earmarked revenue fund may be used to pay claims for expense incurred in the administration of this act when the claims have been approved as provided by law.*"

Section 326. Section 67-2107, R.C.M. 1947, is amended to read as follows:

"67-2107. **Investigation of subdivisions — powers of board.** The *board* may investigate any subdivision being offered for sale or lease under the provisions of this act. For the purpose of *an* investigation, the *board* may:

(1) Use and rely upon any relevant information or data concerning a subdivision obtained by it from the federal housing administration, the United States veterans administration, or any other agency having comparable duties and functions in relation to subdivisions or property therein.

(2) Require reports prepared by competent authorities as to any hazard to which the subdivision may be subject or any factor which might affect the value or utility of lots or parcels within the subdivision.

(3) Require evidence of compliance with the requirements of appropriate authorities.

(4) Require an inspection of the subdivision to be made."

Section 327. Section 67-2108, R.C.M. 1947, is amended to read as follows:

"67-2108. **Findings not to be used in advertising.** It is unlawful for any person to incorporate in any advertising material or use for any advertising purposes the results or findings of the *board* as provided for in this act."

Section 328. Section 67-2110, R.C.M. 1947, is amended to read as follows:

"67-2110. **Required provisions for protection of purchasers and lessees.** It is unlawful for the owner or subdivider to offer to sell or lease or to sell or lease lots or parcels within a subdivision to persons residing out of the state of Montana unless one of the following conditions is complied with:

(1) All sums paid or advanced by purchasers shall be impounded in an escrow or other depository acceptable to the *board* until: (a) The title or other interest contracted for whether it be title of record, equitable or other interest, is delivered to such purchaser or lessee and until: (b) A proper release is obtained from any such blanket encumbrance, or: (c) Either the owner, subdivider, purchaser or lessee defaults in his undertaking, in which event the moneys shall be paid to the party who is not in default and is entitled thereto.

(2) The title to the subdivision is to be held in trust under an agreement of trust acceptable to the *board* until a proper release from such blanket encumbrance is obtained and title or other interest contracted for is delivered to such purchaser or lessee.

(3) A bond in the amount of twenty-five hundred dollars (\$2,500) to the state of Montana is furnished to the *board* for the benefit and protection of purchasers or lessees of such lots or parcels, in such amount and subject to *the* terms as may be approved by the *board*, which shall provide for the return of moneys paid or advanced by any purchaser or lessee, for or on account of purchase or lease of any such lot or parcel if the interest contracted for is not delivered or a proper release from such blanket encumbrance is not obtained; however, if *the* purchaser or lessee, by reason of default, is not entitled to the return of *the* moneys, or any portion thereof, then *the* bond shall be exonerated to the extent of the amount of *the* moneys to which such purchaser or lessee is not entitled."

Section 329. Section 67-2112, R.C.M. 1947, is amended to read as follows:

"67-2112. **Notice of multiple sales or leases to one purchaser or lessee.** When five or more lots or parcels within a subdivision subject to the provisions of this act, are optioned, leased, or sold to another, or when an interest therein is acquired by one owner, lessee or optionee, the *board* shall be notified by the parties to the transaction."

Section 330. Section 67-2113, R.C.M. 1947, is amended to read as follows:

"67-2113. **Inspection of records by board — notice of change of**

address or change of depository. Records of the sale or lease of parcels within a subdivision subject to the provisions of this act, shall be subject to inspection by the *board* and the *board* shall be notified of any change of address affecting the location of the owner's, subdivider's or agent's records or of any change in depository for the impounding of purchasers' money in accordance with the provisions herein."

Section 331. Section 67-2114, R.C.M. 1947, is amended to read as follows:

"67-2114. **Orders to desist and refrain — prohibition of sales and leases — hearings.** When in the opinion of the *board* a person has or is violating, or is about to violate, any of the provisions of this act, the *board* may order the person to desist and refrain from doing so, or, if an examination of the project shows that the sale or lease would constitute misrepresentation to, or deceit or fraud of, the purchasers or lessees of lots or parcels in a subdivision, the *board* may issue an order prohibiting the sale or lease, or either, of the property in this state. If, after such an order is made, a request for a hearing by the *board* is filed in writing and a hearing is not held within sixty (60) days thereafter, the order is rescinded."

Section 332. Section 67-2116, R.C.M. 1947, is amended to read as follows:

"67-2116. **Misdemeanors enumerated.** The following acts are misdemeanors:

- (1) The willful violation or failure to comply with any of the provisions of this act;
- (2) The willful violation, failure, omission or neglect to obey, observe or comply with any order, permit, decision, demand or requirement of the *board*;
- (3) The offering for sale or lease as an agent, salesman, or broker for a subdivider, developer, or owner of subdivided lands or a subdivision, wherever situated, which is being offered for sale outside the state of Montana without first complying with the provisions of this act;
- (4) The advertising for sale or lease in this state of a parcel in an out-of-state subdivision or in any other manner aiding an owner, subdivider, or developer of an out-of-state subdivision who has not complied with the provisions of this act, to offer within this state subdivided lands."

Section 333. Section 67-2117, R.C.M. 1947, is amended to read as follows:

"67-2117. **Definitions.** When used in this act, unless the context otherwise requires:

- (1) "*Disposition*" includes sale, lease, assignment, or any other transaction concerning a subdivision, if undertaken for gain or profit;
- (2) "*Offer*" includes every inducement, solicitation, or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit;

(3) "*Person*" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

(4) "*Purchaser*" means a person who acquires or attempts to acquire or succeeds to an interest in land;

(5) "*Subdivider*" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner;

(6) "*Subdivision*" and "subdivided lands" mean any land which is divided or is proposed to be divided for the purpose of disposition into five (5) or more lots, parcels, units, or interests and also includes any land whether contiguous or not if five (5) or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

(7) "*Board*" means the board of real estate, provided for in section 82A-1602.23.

(8) "*Chairman*" means the chairman of the board of real estate.

(9) "*Department*" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16."

Section 334. Section 67-2118, R.C.M. 1947, is amended to read as follows:

"67-2118. **Board.** This act shall be administered by the *board*. The *board* shall charge a fee, not to exceed five hundred dollars (\$500) for each application for registration of subdivided lands received in accordance with this act, which shall be paid into the earmarked revenue fund to the credit of the *board* and is hereby appropriated for the purposes of carrying out the provisions of this act, subject to section 82A-1603(6). All expenditures of the funds by the *board* under the provisions of this act shall be certified and approved by the *board* and paid by the appropriate state officials. Payment shall be made upon warrants appropriately drawn out of the proper funds. The *department* shall provide a system of accounting which shall show the amount of money received therefor, and also an itemized statement of expenses in connection therewith. The *board* may make orders concerning the disbursement of the moneys in the earmarked revenue fund, including the payment of compensation and expenses of board members."

Section 335. Section 67-2121, R.C.M. 1947, is amended to read as follows:

"67-2121. **Application for registration.** (1) The application for registration of subdivided lands shall be filed with the *department* as prescribed by the *board's* rules and shall contain the following documents and information:

- (a) An irrevocable appointment of the *department* to receive service of any lawful process in any noncriminal proceeding arising under this act against the applicant or his personal representative;

(b) A legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, the dimensions of the lots, parcels, units, or interests and the relation of the subdivided lands to existing streets, roads, and other off-site improvements;

(c) The states or jurisdictions in which an application for registration or similar document has been filed and any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

(d) The applicant's name and address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this state;

(e) The name, address, and principal occupation for the past five (5) years of every director and officer of the applicant or person occupying a similar status or performing similar functions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within thirty (30) days of the filing of the application;

(f) A statement, in a form acceptable to the *board*, of the condition of the title to the subdivided lands including encumbrances as of a specified date within thirty (30) days of the date of application by a title opinion of an attorney licensed to practice in this state, not a salaried employee, officer, or director of the applicant or owner, or by other evidence of title acceptable to the *board*;

(g) Copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(h) Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;

(i) If there is a lien or encumbrance affecting more than one (1) lot, parcel, unit, or interest a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;

(j) Copies of instruments creating easements, restrictions, or other encumbrances, affecting the subdivided lands;

(k) A statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;

(l) A statement of the existing provisions for access, sewage, disposal, water, and other public utilities, in the subdivision; a statement of the improvements to be installed; the schedule for their completion; and a statement as to the provisions for improvement maintenance;

(m) A narrative description of the promotional plan for the disposition of the subdivided lands together with copies of all advertising material which has been prepared for public distribution by any means of communication;

(n) The proposed public offering statement;

(o) Any other information, including any current financial statement, which the *board* by its rules requires for the protection of purchasers.

(2) If the subdivider registers additional subdivided lands to be offered for disposition, he may consolidate the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan.

(3) The subdivider shall immediately report any material changes in the information contained in an application for registration."

Section 336. Section 67-2122, R.C.M. 1947, is amended to read as follows:

"67-2122. **Public offering statement.** (1) A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. The proposed public offering statement submitted to the *department* shall be in a form prescribed by the *board's* rules and shall include the following:

(a) The name and principal address of the subdivider;

(b) A general description of the subdivided lands stating the total number of lots, parcels, units, or interests in the offering;

(c) The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

(d) A statement of the use for which the property is offered;

(e) Information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities, and customary utilities, and the estimated cost, date of completion, and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in subdivided lands;

(f) Additional information required by the *board* to assure full and fair disclosure to prospective purchasers.

(2) The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the *board* approves or recommends the subdivided lands or disposition thereof. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the *board* requires it.

(3) The *board* may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers. No change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made

after registration without notifying the *board* and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated."

Section 337. Section 67-2123, R.C.M. 1947, is amended to read as follows:

"67-2123. **Inquiry and examination.** On receipt of an application for registration in proper form by the *department*, the *board* shall forthwith initiate an examination to determine that:

(1) *The* subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyances in trust, or other safeguards have been provided;

(2) *There* is reasonable assurance that all proposed improvements will be completed as represented;

(3) *The* advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the *board* in its rules and afford full and fair disclosure;

(4) *The* subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country within the past ten (10) years and has not been subject to any injunction or administrative order entered by any authority within the past ten (10) years restraining a false or misleading promotional plan involving land dispositions;

(5) *The* public offering statement requirements of this act have been satisfied."

Section 338. Section 67-2124, R.C.M. 1947, is amended to read as follows:

"67-2124. **Notice of filing and registration.** (1) On receipt of the application for registration in proper form, the *department* shall issue a notice of filing to the applicant. Within ninety (90) days from the date of the notice of filing, the *board* shall enter an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within ninety (90) days from the date of notice of filing, the land shall be *considered* registered unless the applicant has consented in writing to a delay.

(2) If the *board* affirmatively determines, upon inquiry and examination, that the requirements of section 67-2123 have been met, it shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.

(3) If the *board* determines upon inquiry and examination that any of the requirements of section 67-2123 has not been met, it shall notify the applicant that the application for registration must be corrected in the particulars specified within ten (10) days. If the requirements are not met within the time allowed the *board* shall enter an order rejecting the

registration, which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty (20) days, during which time the applicant may petition for reconsideration and is entitled to a hearing.

(4) No subdivided lands may be registered or *considered* registered until the subdivider has filed a bond with the *department* running to the state of Montana, executed by a surety company authorized to do business in this state, on a form approved by the *board*, conditioned that the subdivider shall pay, to the extent of ten thousand dollars (\$10,000) for each occurrence, any judgment recovered against him for loss or damage to any person arising out of the sale or disposition in Montana of any subdivided lands situate out-of-state."

Section 339. Section 67-2125, R.C.M. 1947, is amended to read as follows:

"67-2125. **Annual report.** (1) Within thirty (30) days after each annual anniversary of an order registering subdivided lands, the subdivider shall file a report with the *department* in the form prescribed by the rules of the *board*. The report shall reflect any material changes in information contained in the original application for registration.

(2) The *board* may permit the filing of annual reports within thirty (30) days after the anniversary date of the consolidated registration instead of the anniversary date of the original registration."

Section 340. Section 67-2126, R.C.M. 1947, is amended to read as follows:

"67-2126. **General powers and duties.** (1) In the administration of this act, the *board* shall have all of the powers and duties as stated in subsections (2), (3) and (4) of section 66-1927. The *board* shall adopt reasonable rules relating to the administration of this act, but not inconsistent therewith, which may be amended or repealed. The rules shall include but need not be limited to:

(a) *Provisions* for advertising standards to assure full and fair disclosure;

(b) *Provisions* for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for;

(c) *Provisions* for operating procedures; and,

(d) *Other* rules necessary and proper to accomplish the purpose of this act.

(2) The *board* by rule or order, after reasonable notice and hearing, may require the filing of advertising material relating to subdivided lands prior to its distribution.

(3) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this act or a rule or order hereunder, the *board*, with or without prior administrative

proceedings, may bring an action in any district court of this state to enjoin the acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The *board* is not required to post a bond in any court proceedings.

(4) The *board* may intervene in a suit involving subdivided lands. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the *department* notice of the suit and copies of all pleadings.

(5) The *board* may:

(a) Accept registrations filed in other states or with the federal government;

(b) Contract with similar agencies in this state or other jurisdictions to perform investigative functions;

(c) Accept grants-in-aid from any source.

(6) The *board* shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices.

(7) The *board* may exempt a subdivision of twenty-five (25) or fewer lots, parcels, units, or interests from the provisions of this act if it determines that the plan of promotion and disposition is primarily directed to persons in the local community in which the subdivision is situated."

Section 341. Section 67-2127, R.C.M. 1947, is amended to read as follows:

"67-2127. **Investigations and proceedings.** (1) The *board* may:

(a) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this act or any rule or order hereunder or to aid in the enforcement of this act or in the prescribing of rules and forms hereunder;

(b) Require or permit any person to file a statement in writing, under oath or otherwise as the *board* determines, as to all the facts and circumstances concerning the matter to be investigated.

(2) For the purpose of any investigation or proceeding under this act, the *board* or any officer designated by rule may administer oaths or affirmations, and upon its own motion or upon request of any party may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure to obey a subpoena or to answer questions propounded

by the investigating officer and upon reasonable notice to all persons affected thereby, the *board* may apply to any district court of this state for an order compelling compliance.

(4) Any person directly affected by any ruling, determination, or decision of the *board* or any officer thereof, may appeal to the *board* for hearing and review by serving written notice of appeal upon the chairman within fifteen (15) days after such rule, determination or decision is mailed to, or served upon, the person. Notice of appeal shall state specifically the matters that the appellant desires reviewed, but shall not act as a stay unless otherwise provided by this act. Upon receipt of notice of appeal, the chairman shall serve upon the appellant notice of time and place of said hearing not less than fifteen (15) days prior to the date of hearing, to be held in the offices of the *department* in Helena, Montana, or elsewhere as the chairman shall order. The *board* is not bound by any laws of evidence of this state. Four (4) members of the *board* shall constitute a quorum, one of whom must be the chairman. No member of the *board* shall hear any matter in which he has a personal interest, nor shall he represent any person or witness at the hearing. Any party to the proceedings may challenge any *board member* in writing, served upon the chairman of the *board* five (5) days in advance of any scheduled appeal hearing, stating the reasons therefor, and if the *board* shall find merit in the challenge, it shall disqualify the challenged member. If disqualification reduces the *board* membership to less than four (4), the remaining members shall appoint disinterested people to fill the vacancies to provide a four-man hearing *board*. The *board* may postpone or continue a hearing from time to time as it considers necessary. The decision of any three (3) *board members* shall constitute the decision of the *board* on any issue presented for its decision. If the appellant or his representative fails to appear at the hearing after due notice, and good cause for continuance is not shown, the *board* shall render its decision upon the evidence presented to it. The *board* shall have continuing jurisdiction over all matters heard by it, to examine additional evidence, or to hear additional testimony, and to revise, modify, alter, amend or reverse all orders, demands, findings and decisions made by it at any time and shall not lose jurisdiction until jurisdiction has been taken by a court of competent jurisdiction in a proceeding filed in such court."

Section 342. Section 67-2128, R.C.M. 1947, is amended to read as follows:

"67-2128. **Cease and desist orders.** (1) If the *board* determines after notice and hearing that a person has:

(a) Violated any provision of this act;

(b) Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;

(c) Made any substantial change in the plan of disposition and development of the subdivided lands subsequent to the order of registration without obtaining prior written approval from the *board*;

(d) Disposed of any subdivided lands which have not been registered with the *board*; or

(e) *Violated* any lawful order or rule of the *board*; it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the *board* will carry out the purposes of this act.

(2) If the *board* makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the *board* whenever possible by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held within twenty (20) days to determine whether or not it becomes permanent."

Section 343. Section 67-2129, R.C.M. 1947, is amended to read as follows:

"67-2129. **Revocation.** (1) A registration may be revoked after notice and hearing upon a written finding of fact that the subdivider has:

- (a) *Failed* to comply with the terms of a cease and desist order;
- (b) *Been* convicted in any court subsequent to the filing of the application for registration of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
- (c) *Disposed* of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;
- (d) *Failed* faithfully to perform any stipulation or agreement made with the *board* as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement; or
- (e) *Made* intentional misrepresentations or concealed material facts in an application for registration. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(2) If the *board* finds after notice and hearing that the subdivider has been guilty of a violation for which revocation could be ordered, it may issue a cease and desist order instead."

Section 344. Section 67-2135, R.C.M. 1947, is amended to read as follows:

"67-2135. **Service of process.** (1) In addition to the methods of service of process provided for in the Montana Rules of Civil Procedure, service may be made upon any person for any cause arising under the provisions of this act by delivering a copy of the process to the office of the *department*, but it is not effective unless:

- (a) *The* plaintiff (which may be the *board* in a proceeding instituted by it) *immediately* sends a copy of the process and of the pleading by registered mail to the defendant or respondent at his last known address; and

(b) *The* plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(2) If any person, including any nonresident of this state, engages in conduct prohibited by this act or any rule or order hereunder, and has not filed a consent to service of process and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct authorizes the *department* to receive service of process in any noncriminal proceeding against him or his successor which grows out of the conduct and which is brought under this act or any rule or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection (1)."

Section 345. Section 82-301, R.C.M. 1947, is amended to read as follows:

"82-301. **Board of athletics — compensation and expense — meetings — chairman — seal — quorum.** The members of the *board of athletics* shall serve without compensation but shall be allowed necessary expenses, to be paid by the state treasurer on warrant properly drawn out of the proceeds of the tax collected *under this act*. [The] *board* shall before April 1 of each year, elect one of its number chairman, shall adopt a seal for the *board* and may *adopt* rules for the administration of its office. Two (2) of the members of the *board* constitute a quorum to do business; and the concurrence of at least two (2) *members* is necessary to render a choice or decision by the *board*."

Section 346. There is a new section to be numbered 82-301.1, R.C.M. 1947, which reads as follows:

82-301.1. **Definitions.** Unless the context requires otherwise, in this chapter:

- (1) "Board" means the board of athletics, provided for in section 82A-1602.4; and
- (2) "Department" means the department of professional and occupational licensing, provided for in Title 82A, chapter 16.

Section 347. Section 82-302, R.C.M. 1947, is amended to read as follows:

"82-302. **Department's duties.** The *department* shall keep a record of the *board's* proceedings, preserve the *board's* books, documents and papers and, prepare for service notices and other papers required by the *board*; and it may under direction of the *board* issue subpoenas for the attendance of witnesses before the *board* and may, under direction of the *board*, administer oaths in matters pertaining to the administration of the affairs of the *board*."

Section 348. Section 82-303, R.C.M. 1947, is amended to read as follows:

"82-303. **Jurisdiction over boxing, sparring and wrestling matches — licenses — application for license.** The *board* has the sole

direction, management, control, and jurisdiction over boxing, sparring, and wrestling matches and exhibitions conducted, held, or given within this state by a club, corporation, or association. No boxing, sparring, or wrestling match or exhibition may be conducted, held, or given within this state except in accordance with this act. The board may, in its discretion and subject to sections 82A-1603 and 82A-1604, issue and at its pleasure revoke, a license to conduct, hold, or give boxing, sparring, and wrestling matches and exhibitions to a club, corporation, or association, and which, if it is an amateur athletic association, may be incorporated or organized under rules adopted by the board. This act does not apply to or prohibit amateur boxing or wrestling exhibitions conducted in or by organized amateur clubs, schools, and gymnasiums. A license is subject to rules the board makes. An application for a license shall be in writing and addressed to the department and verified by an officer of the club, corporation, or association on whose behalf the application is made. It shall contain facts which show the applicant entitled to receive a license, and other facts and recitals the board by rule requires to be shown."

Section 349. Section 82-305, R.C.M. 1947, is amended to read as follows:

"82-305. **Duration of bouts — glove specifications — physical examination of participants.** A boxing or sparring match or exhibition may be not more than twenty (20) rounds in length; and the contestants shall wear during these contests, gloves weighing at least six (6) ounces. No person may take part in an exhibition or sparring match unless he has first passed a rigorous physical examination to determine his fitness to engage in the exhibition. The examination is to be conducted by a regular practicing physician designated by the board."

Section 350. Section 82-306, R.C.M. 1947, is amended to read as follows:

"82-306. **Forfeiture of license for conducting fake bouts.** A club, corporation, or association which conducts, holds, gives, or participates in, a sham or fake boxing or sparring match or exhibition shall forfeit the license issued under this act, and it may not thereafter receive another license under this act."

Section 351. Section 82-308, R.C.M. 1947, is amended to read as follows:

"82-308. **Report of ticket sales — tax on gross receipts — disposition of tax moneys received.** A club, corporation, or association which exercises the privileges conferred by this act, shall, within twenty-four (24) hours after the determination of a boxing, sparring, or wrestling contest or exhibition, furnish to the department a written report, verified by one of its officers, showing the number of tickets sold for the boxing, sparring, or wrestling contest or exhibition and the amount of gross proceeds, and such other matters as the board prescribes, and shall also within twenty-four (24) hours pay to the county treasurer a tax of five percent (5%) of its total gross receipts after deducting the federal admission tax, if any, from the sale of tickets of admission to the boxing, sparring, or wrestling match or exhibition. This tax shall be transmitted to the state treasurer

by the county treasurer within a period of ten (10) days after its collection. The tax shall be deposited in the earmarked revenue fund for the use of the board, subject to section 82A-1603(6)."

Section 352. Section 82-309, R.C.M. 1947, is amended to read as follows:

"82-309. **Bond of applicant for license.** Before a license is granted to a club, corporation, or association to conduct, hold, or give a boxing, sparring, or wrestling match or exhibition, the applicant shall execute and file with the state treasurer a bond in the sum of five thousand dollars (\$5,000), payable to this state, to be approved in form by the attorney general, and as to sufficiency of the sureties by the board. The bond shall be conditioned on the payment of the tax imposed by section 82-308. On the filing and approving of the bond, the department shall issue to the applicant a license."

Section 353. Section 82-310, R.C.M. 1947, is amended to read as follows:

"82-310. **Examination of books and records on failure to make report or unsatisfactory report — penalty for failure to pay tax.** When a club, corporation, or association fails to make a report of a contest at the time prescribed by this act or when the report is unsatisfactory to the board, it may examine or have examined the books and records of the club, corporation, or association, and subpoena and examine under oath its officers and other persons as witnesses for the purpose of determining the total amount of its gross receipts for a contest and the amount of tax due under this act, which tax it may, as the result of the examination, fix and determine. In case of default in the payment of tax ascertained to be due, together with the expenses incurred in making the examination, for a period of twenty (20) days after notice to the delinquent club, corporation, or association of the amount at which it may be fixed by the board, the delinquent shall forfeit its license and is disqualified from receiving a new license or a renewal of license; and it shall in addition forfeit to this state the sum of five hundred dollars (\$500), which may be recovered by the attorney general in the name of this state in the same manner as other penalties are by law recovered, and when collected shall be used and applied as other moneys received under this act."

Section 354. Section 82A-1602, R.C.M. 1947, is amended to read as follows:

"82A-1602. **Department — agencies allocated to.** The agencies provided for in sections 82A-1602.1 through 82A-1602.27, are allocated to the department for administrative purposes only as prescribed in section 82A-108."

Section 355. There is a new section to be numbered 82A-1602.4, R.C.M. 1947, which reads as follows:

82A-1602.4. **Board of athletics — appointment — qualifications — term.** (1) There is a board of athletics.

(2) The board consists of three (3) members appointed by the governor.

(3) Each member shall serve for a term of three (3) years.

Section 356. There is a new section to be numbered 82A-1602.6, R.C.M. 1947, which reads as follows:

82A-1602.6. Board of podiatry examiners — appointment — qualifications — term. (1) There is a board of podiatry examiners.

(2) The board consists of five (5) members. One (1) member is a physician selected by the Montana state board of medical examiners at its annual meeting from its membership. One (1) member is the secretary of the Montana state board of medical examiners. Three (3) members are licensed podiatrists appointed by the governor to three (3) year terms selected from a list of six (6) podiatrists submitted by the Montana association of podiatrists. The podiatrist members shall be residents of this state who have engaged in the active practice of podiatry in this state for at least two (2) years and are of high integrity and ability. The governor shall fill a vacancy on the board from the same list of podiatrists.

Section 357. There is a new section to be numbered 82A-1602.18, R.C.M. 1947, which reads as follows:

82A-1602.18. Board of nursing — appointment — qualifications — term — removal. (1) There is a board of nursing.

(2) The board consists of eight (8) members appointed by the governor. The members are:

(a) Five (5) registered professional nurses which constitute the board — professional nursing administration. Each member shall: (i) be a graduate of an approved school of nursing; (ii) be a licensed nurse in this state; (iii) have had at least five (5) years' experience in nursing following graduation; and (iv) have been actively engaged in nursing for at least three (3) years immediately before appointment. At least three (3) members shall have had at least three (3) years in administrative, teaching, or supervisory experience in schools of nursing.

(b) Three (3) practical nurses which constitute the board — practical nursing administration. Each member shall: (i) be a graduate of a school of practical nursing; (ii) be a licensed practical nurse in this state; (iii) have had at least three (3) years' experience as a practical nurse; and (iv) have been actively engaged in the practice of practical nursing for at least two (2) years immediately before appointment.

(3) All members shall have been residents of this state for at least one (1) year before appointment, and be citizens of the United States.

(4) All members shall serve for a term of five (5) years, and a member may not be appointed for more than two (2) consecutive terms. The governor may remove a member from the board for neglect of a duty required by law, or for incompetency, or unprofessional or dishonorable conduct.

Section 358. There is a new section to be numbered 82A-1602.19, R.C.M. 1947, which reads as follows:

82A-1602.19. Board of optometrists — appointment — qualifications — term. (1) There is a board of optometrists.

(2) The board consists of three (3) members appointed by the governor.

Each member shall be a registered optometrist of this state and actually engaged in the exclusive practice of optometry in this state during his term of office.

(3) Each member shall serve for a term of six (6) years.

Section 359. There is a new section to be numbered 82A-1602.22, R.C.M. 1947, which reads as follows:

82A-1602.22. Board of plumbers — appointment — qualifications — term. (1) There is a board of plumbers.

(2) The board consists of seven (7) members appointed by the governor. The members are:

(a) Two (2) master plumbers and two (2) journeyman plumbers who are at least eighteen (18) years old, who have been residents of this state for more than one (1) year, and who have been at least five (5) out of the last eight (8) years immediately preceding their appointment, duly licensed master or journeyman plumbers;

(b) One (1) registered professional engineer, qualified in mechanical engineering;

(c) One (1) representative of the public who is not engaged in the business of installing or selling plumbing equipment;

(d) One (1) appointed representative of the department of health and environmental sciences, who shall be a sanitary engineer and who is secretary of the board.

(3) The appointed members of the board shall serve for a term of four (4) years.

Section 360. There is a new section to be numbered 82A-1602.23, R.C.M. 1947, which reads as follows:

82A-1602.23. Board of real estate — appointment — qualifications — term. (1) There is a board of real estate.

(2) The board consists of five (5) members. The members are the director of agriculture, who is the chairman of the board, and four (4) members appointed by the governor. The four (4) appointed members shall:

(a) Be residents of this state. At least two (2) members shall be active and licensed real estate brokers and have been actively engaged in the real estate business as a broker in this state for not less than five (5) continuous years before appointment;

(b) Be appointed so not more than two (2) are from the same congressional district, with no more than one (1) eligible real estate broker from the same congressional district. If a member takes up residence in a district different from the one in which he resided at the time of appointment, he vacates his membership on the board.

(c) Be appointed, in the event of a vacancy, by appointing a resident from the same district as the member whose office has been vacated.

(3) Not more than three (3) members, including the chairman, shall be from the same political party.

(4) The four (4) appointed members shall serve for a term of four (4) years.

Section 361. There is a new section to be numbered 82A-1602.26, R.C.M. 1947, which reads as follows:

82A-1602.26. Board of water well contractors — appointment — qualifications — term. (1) There is a board of water well contractors.

(2) The board consists of five (5) voting members. The members are:

(a) One (1) hydrogeologist appointed by the director of the Montana bureau of mines and geology;

(b) One (1) appointed by the director of natural resources and conservation;

(c) One (1) appointed by the director of health and environmental sciences;

(d) Two (2) licensed water well contractors appointed by the governor with the consent of the senate. These members shall have been residents of this state for at least three (3) years before appointment, and shall have had at least five (5) years' experience in the water well drilling business.

(3) The appointed member shall serve for a term of three (3) years.

Section 362. The terms of the members of the board of athletics, board of podiatry examiners, board of nurses, board of optometrists, board of plumbers, board of real estate, and the board of water well contractors existing prior to the effective date of this act are continued as the initial terms on the respective boards created in sections 82A-1602.4, 82A-1602.6, 82A-1602.18, 82A-1602.19, 82A-1602.22, 82A-1602.23 and 82A-1602.26.

Section 363. Sections 66-404, 66-502, 66-514, 66-902, 66-914, 66-925, 66-1010, 66-1014, 66-1035, 66-1040, 66-1044, 66-1049, 66-1224, 66-1230, 66-1233, 66-1245, 66-1306, 66-1309, 66-1509, 66-1814, 66-1822, 66-1939, 66-2107, 66-2109, 66-2112, 66-2205, 66-2206, 66-2325, 66-2328, 66-2330, 66-2342, 66-2410, 66-2413, 66-2421, 66-2423, 66-2425, 66-2504, 66-2517, 66-2601, 66-2611, 66-2614, 66-2705, 66-2716, 66-2801, 66-2813, 66-2816, 66-3002, 66-3013, 66-3023, 66-3114, 66-3210, 67-2130, are repealed.

Approved March 28, 1974

CHAPTER NO. 351

AN ACT PROVIDING FOR ALTERNATE METHODS OF FINANCING CITY-COUNTY BOARDS OF HEALTH IN FIRST AND SECOND CLASS COUNTIES; AMENDING SECTION 69-4508, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-4508, R.C.M. 1947, is amended to read as follows:

"69-4508. Financing of local boards of health — appropriations — tax levies. (1) Local boards are financed by general fund appropriations, *special levy appropriations*, state and federal funds available, and contributions from school boards and other official and nonofficial agencies.

(2) Appropriations are made as follows:

(a) County boards are financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under chapter 19, Title 16, R. C. M. 1947.

(b) City boards are financed by an appropriation from the general fund of the city after approval of a budget in the way provided for other city offices and departments under chapter 14, Title 11, R. C. M. 1947.

(c) If a city-county board is created:

(i) *The county commissioners and governing body of the city, or cities, may mutually agree upon the division of expenses. The county part of total expenses is financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under chapter 19, Title 16, R. C. M. 1947. The city, or cities, part of total costs is financed by an appropriation from the general fund of the city, or cities, participating in the city-county board after approval of a budget in the way provided for other city offices and departments under chapter 14, Title 11, R.C.M. 1947. All moneys shall be deposited with the county treasurer who shall disburse them as county funds; or*

(ii) In first and second class counties, the county commissioners and governing body of the city, or cities, may mutually agree upon the division of the expenses. The county part of total expenses is financed by a special levy of not more than five (5) mills on the taxable valuation of all property outside the incorporated limits of the city, or cities, participating in the city-county board after approval of a budget in the way provided for other county offices and departments under chapter 19, Title 16, R.C.M. 1947. If the five (5) mill levy is not sufficient to fund the county share, county commissioners may supplement it with an appropriation from the county general fund. Each city, or cities, part of total costs is financed by a special levy of not more than five (5) mills on the taxable valuation of all property within the incorporated limits of the city, or cities, participating in the city-county board after approval of a budget in the way provided for other city offices and departments under chapter 14, Title 11, R.C.M. 1947. All moneys shall be deposited with the county treasurer who shall disburse them as county funds. The special levies authorized by this subsection are in addition to all other levies authorized by law.

(d) District boards are financed by appropriations from the general funds of the counties in the district in proportion to the population in